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Relating to

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OREGON STATE BOARD OF HEALTH

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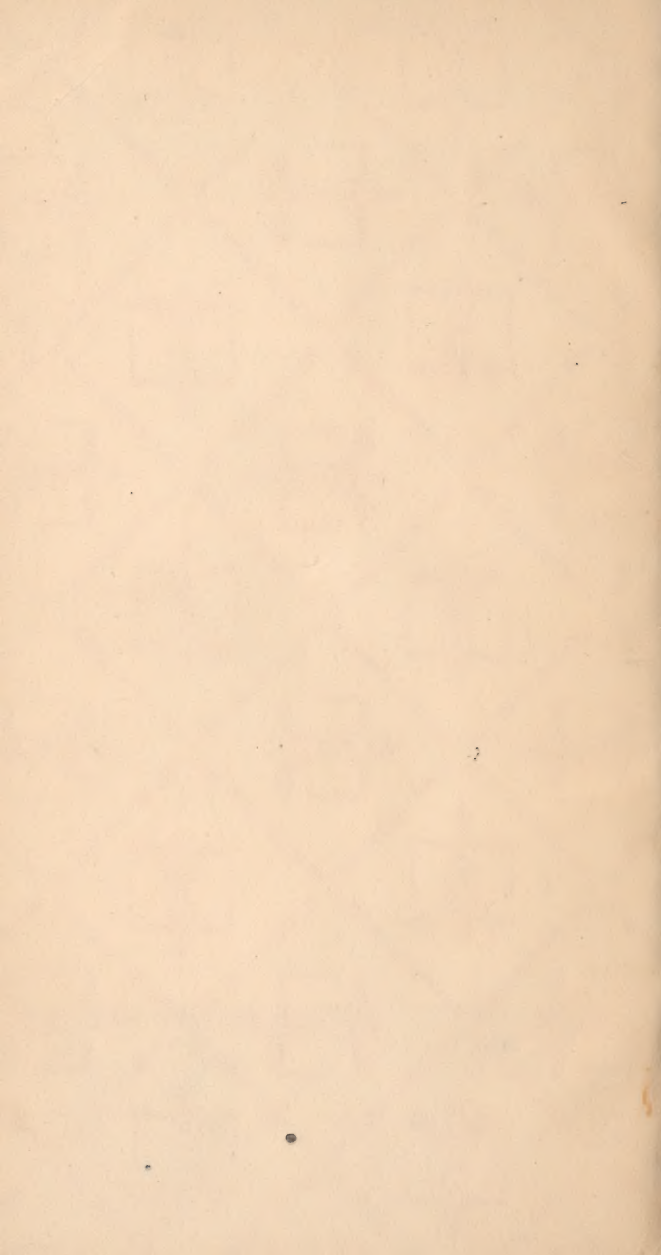


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State Board of Health

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Sec. 99-101. **Establishment of Board.** A board is hereby established which shall be known under the name and style of the state board of health. (L. 1903, p. 832, Sec. 1; L. O. L. Sec. 4686; O. L. Sec. 8358; O. C. 1930, Sec. 59-101.)

Sec. 99-102. **Membership: Appointment and Continuance in Office: Qualifications: Appointment of Successors: Filling Vacancies.** The state board of health, heretofore appointed by the governor of this state, together with the additional member provided for by this act, shall constitute the state board of health under this act. Each member of said board heretofore appointed shall continue in office for the remainder of the term for which he shall have been appointed. The state board of health shall consist of nine members, eight of whom shall be appointed by the governor, with the consent of the senate, or their successors, and a secretary to be appointed by the board, who shall be known and designated as the "State Health Officer." Seven of the members shall be physicians, one member shall be a dentist who shall actively have been engaged in the practice of dentistry in the state of Oregon five years immediately prior to his appointment; one member shall be a registered pharmacist who shall also be a member of the board of pharmacy; and all selected for their especial fitness. As soon as this act shall become effective the governor shall appoint a pharmacist to become a member of said board, and to hold such office until the first day of March, 1943. Upon the expiration of the term of any of the members of said board, the governor, with the consent of the senate, shall appoint a successor to hold such office for the term of four years. Any vacancy in said board may be filled by the governor. (L. 1919, ch. 264, Sec. 1, p. 385; O. L. Sec. 8359; O. C. 1930, Sec. 59-102; L. 1933, ch. 307, Sec. 1, p. 477; L. 1939, ch. 371, Sec. 1, p. 709.)

Sec. 99-103. **General Powers and Duties of Board: Making and Filing Rules and Regulations: Enforcement of Regulations by Executive Officers, County Officers, and State Employees.** The state board of health shall have direct supervision of all matters relating to the preservation of life and health of the people of the state. It shall keep the vital statistics of the state, and make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics. The board

shall have full power in the control of all communicable diseases. It shall make and file in the office of the secretary of state such rules and regulations and is hereby empowered to enforce such rules and regulations for the control of any and all communicable diseases by quarantining; or the adoption of any other reasonable measures as seem best for limiting the spread of communicable diseases, and for the preservation of the public health; and it shall be the duty of all executive officers, including police officers, sheriffs, constables and all county officers and employees of the state, to enforce such regulations, subject to the authority of the state health officer. (L. 1903, p. 82, 2; L. O. L. 4687; L. 1919, ch. 264, 2, p. 385; O. L. 8360; O. C. 1930, 59-103.)

Sec. 99-104. Bacteriological Examinations. For the better protection of the public health the laboratory of the state board of health shall make such bacteriological examinations of water, milk, blood, secretions and tissues required by any state, county or city institution, or officer, or for any regularly licensed physician in accordance with the rules and regulations of the state board of health. (L. 1919, ch. 264, 118, p. 385; O. L. 8480; O. C. 1930, 59-1121.)

Sec. 99-105. Meetings of Board: Quorum: President: Adoption of Rules and Regulations: Sending Secretary or Committee to Parts of State. The board shall meet annually at Salem, on the second Tuesday of January, and shall also hold special meetings where and when the board may provide, as frequently as the proper and efficient discharge of its duties may require. Three shall constitute a quorum for the transaction of business. It shall elect from its own number a president, and may adopt rules and regulations subject to the provisions of this act. It shall have authority to send its secretary or committee of the board to any part of the state when deemed necessary. (L. 1903, p. 82, Sec. 3; L. O. L. Sec. 4688; L. 1919, ch. 264, Sec. 4, p. 385; O. L. Sec. 8361; O. C. 1930, Sec. 59-104.)

Sec. 99-106. Secretary to the Board: Election: Title: Qualifications. At the first meeting, or as soon thereafter as a competent and suitable person can be secured, the board shall elect a secretary, who shall, by virtue of such election, become a member of the board and its executive officer, and his official title shall be known as the "state health officer," who shall be a regularly graduated and reputable physician.

(L. 1903, p. 82, Sec. 4; L. O. L. Sec. 4689; L. 1919, ch. 264, Sec. 5, p. 385; O. L. Sec. 8362; O. C. 1930, Sec. 59-105.)

Sec. 99-107. Term of Office: Removal: Duties and Powers Generally: Conventions: Powers and Duties When Local Officers Do Not Enforce Rules and Regulations. The secretary shall hold his office so long as he shall faithfully discharge the duties thereof, and may be removed for just cause at a regular or special meeting of the board, a majority of the members voting therefor. He shall perform the duties prescribed by this act, or required by the board. He shall be empowered to employ or discharge any employee of the state health office. He shall keep a record of the transactions of the board, shall have the custody of all books, papers, documents and other property belonging to the board, which may be deposited in his office. He shall communicate with the other state boards of health and with the county boards of health throughout the state; shall keep and file reports received from such boards, and all correspondence of the office appertaining to the business of the board. He shall prepare all blank forms for the state and all subordinate boards of health, and give such instructions as may be necessary, and forward them to the various health officers throughout the state.

It shall be the duty of the state health officer to hold annually a convention of county and city health officers at such place as he shall hold convenient, for the discussion of the questions pertaining to public health and sanitation. Said convention shall continue in session for such time not exceeding three days as the said health officer shall deem necessary. It shall be the duty of the health officer of each county or city to attend such convention, and such officer shall receive his actual and necessary traveling expenses, to be paid by said county or city; provided, that no claim for such compensation or expenses shall be allowed or paid unless it be accompanied by a certificate from the state health officer attesting the attendance of such health officer at said convention.

When any county or city official neglects or refuses from any cause to enforce the rules and regulations of this act, or the peace officers of a county or city refuse or are unable to enforce such rules and regulations when so directed, then it is the duty of the state health officer to take direct charge of such county or city, and he is hereby empowered to call to his aid such assistance as is necessary for the enforcement of the said rules and regulations, the ex-

penses whereof shall be borne by such county or city making the use of this procedure necessary, to be paid out of said county or city treasury upon vouchers properly certified by the state health officer. (L. 1903, p. 82, Sec. 5; L. O. L. Sec. 4690; L. 1919, ch. 264, Secs. 3, 6, 7, p. 385; O. L. Sec. 8363; O. C. 1930, Sec. 59-106.)

Sec. 99-108. Power To Enforce Act: Requiring Issuance of Warrants: Removing Obstacles to Entering Property: Assisting Health Officer. The secretary of the state board of health be, and is hereby authorized and empowered to enforce all the provisions of this act, and if necessary he is authorized to appear before any magistrate empowered to issue warrants in criminal cases, and require such magistrate to issue a warrant, directing it to any sheriff or deputy or any constable or policeman, to remove any person or persons, or obstacle, or to defend any threatened violence to the health officer, upon entering private property, or to assist the health officer in any way to carry out the provisions and intents of this act. (L. 1907, ch. 70, Sec. 16, p. 122; L. O. L. Sec. 4729; O. L. Sec. 8364; O. C. 1930, Sec. 59-107.)

Sec. 99-109. Salaries and Expenses of Secretary, Clerical Aid, and Members of Board. The secretary shall receive an annual salary, which shall be fixed by the state board of health, and the necessary traveling expenses and the necessary expenses for clerical service that the board may deem necessary for his assistance. The board shall certify the amount due him, and, on presentation of said certificate the secretary of state shall draw a warrant on the state treasurer for the amount. The members of the board shall receive no per diem compensation for their services, but their traveling and other necessary expenses, while employed on the business of the board, shall be allowed and paid. (L. 1903, p. 82, Sec. 6; L. O. L. Sec. 4691; L. 1919, ch. 264, Sec. 8, p. 385; O. L. Sec. 8366; O. C. 1930, Sec. 59-108.)

Sec. 99-110. Disposing of Unsuitable Equipment and Material: Depositing and Expending Proceeds. The "state board of health" shall be, and hereby is, authorized and empowered to exchange, sell or dispose of any obsolete, worn out or otherwise unsuitable material or equipment that it may at any time have on hand, when in its judgment such exchange, sale or disposal is to the financial benefit of the state.

The proceeds from such sales or disposal shall be deposited in the state treasury to the credit of the state board of health with a full report covering each separate sale or disposal made by the board under the authority hereby granted, and said fund shall be expended by the state board of health for the purchase of necessary equipment or material used in the research laboratory of said board, subject to the regulations respecting the approval of claims and drawing and honoring of warrants prescribed by law for other expenditures by said board. (L. 1919, ch. 310, p. 567; O. L. Sec. 8383; O. C. 1930, Sec. 59-109.)

DISTRICT HEALTH UNITS

District health units and district boards of health, defining their powers and duties and providing for their financial maintenance.

Sec. 1. Two or more contiguous counties may combine for the purpose of forming a district health unit when the county judge and county commissioners of each of the counties concerned shall adopt resolutions signifying their intention to do so. The respective governing bodies concerned shall then form such district health unit which shall be operated under such terms as shall be agreed upon between them and in accordance with the provisions of this act.

Sec. 2. All members of the county courts of each of the participating counties, and the district health officer, shall constitute the district board of health. The first meeting of the district board of health shall be held within 30 days after the formation of such unit. Thereafter it shall meet at least semiannually at a time and place to be designated by the chairman of said board, and at such other time and places as the chairman may direct.

Sec. 3. The members of the district board of health shall choose their own chairman, and may adopt such rules and bylaws as they deem advisable for government of the board. A majority of the membership shall constitute a quorum for the transaction of business.

Sec. 4. Each district board of health shall be and hereby is invested with all the powers and charged with all the duties that are invested in the state board of health, in so far as the same may be applicable to

the conditions and situations within the respective district for which said district board of health was appointed; provided, that the said district board of health shall not promulgate or adopt any rules or regulations unless the same shall be in harmony with the rules and regulations of the state board of health now in existence, or which may hereafter be enacted or adopted; provided further, that the state board of health shall, in all matters relating to the public health, be supreme and superior to local boards of health.

Sec. 5. 1. Each district board of health herein provided for shall, within 30 days after the first meeting, appoint a district health officer who shall be a physician licensed by the state board of medical examiners, and possessed of such skill and experience in public health duties and sanitary science as may be required by the state board of health; provided, that the appointment of said district health officer shall require the confirmation of the state health officer.

2. The district health officer shall not engage in any occupation which would conflict with his official duties, but shall devote his full time as such health officer, and shall serve at the pleasure of the board.

3. He shall receive a salary which shall be fixed by the district board of health in conformance with appropriate merit rating, together with the actual expenses incurred in the performance of his official duties.

4. He shall be the secretary and executive officer of the district board of health and shall perform such other duties as may be required of him by law.

5. He, with the approval of the board, shall appoint deputy health officers, public health nurses, sanitarians and such assistants as are necessary for the proper performance of his official duties.

Sec. 6. 1. The county judge and county commissioners in each county within a district health unit shall appropriate annually, a sum which shall be specifically designated for the maintenance of the district health unit.

2. All salaries and expenses shall be paid jointly by the counties concerned and in such proportion as the various counties may agree.

Sec. 7. 1. In event that two or more counties combine for the purpose of forming a district health unit, sections 99-201, 99-202, 99-204, 99-205, 99-206, 99-207, 99-208 and 99-209, O. C. L. A., shall not apply to these counties, and all the rights and duties of the various local boards of health and health officers therein designated shall be vested in the district board of health.

2. When two or more counties form a district health unit under the provisions of this act, all city boards of health within such counties shall be abolished, and such district board of health shall have charge of all health activities in those counties. Any city or any school district in such counties hereby is authorized to appropriate money to be expended for public health measures in such city or school district by the district health unit. (L. 1947, ch. 388.)

Sec. 99-201. Boards of Health for Counties and Cities: Secretaries: Election of Secretaries: Qualifications: Terms of Office: Compensation and Removal: Filling Vacancies in Office: Location of Office: Powers. The county judge and county commissioners, and the mayor and common council of each incorporated city, except where a regularly constituted board of health by statute or by ordinance of such city exists or may hereafter be created, shall constitute a board of health ex officio, for each county and city, respectively, of the state, whose duty it shall be to enforce the rules and regulations of the state board of health and such other rules and regulations of the county or city board of health as are provided by the state board of health, and perform such other duties as may from time to time be required of them by the state health officer pertaining to the health of the people. They shall elect a secretary, who shall be in possession of a license issued to him by the state board of medical examiners, who shall be the health officer of the appointing board when so commissioned by the state board of health, and he shall hold his office for the term of two years, or unless sooner terminated as hereinafter provided. The compensation of all county and city health officers shall be prescribed by the board appointing him or to which he belongs, and the same, together with his necessary expenses, shall be paid by the county or city in which he serves, on the first Monday in September, December, March and July; provided, that no incorporated city or town shall pay its secretary less than \$10 per month, nor county board shall pay its

secretary less than \$25 per month. The state board of health shall have power to remove at any time any county, city or town health officer for intemperance, failure to collect vital statistics, obey rules and regulations, keep records, make reports or answer letters of inquiry, or obey orders of the state health officer concerning the health of the people. Such removal, however, shall not be made until five days notice of the charge or charges against such health officer shall have been mailed him; provided, the time and place for hearing such charges by the state board of health shall be in the county seat of the county or in the city or town of which the defendant is health officer and shall take place not later than one week after the time of mailing notice to such health officer; also provided, that he may be represented by counsel; provided, however, that such secretary may, after a hearing, as herein provided, be removed by the appointing power for any of the causes herein specified, and such removal shall carry with it his appointment as county, city or town health officer, as the case may be; and it is further provided, that said health officer so removed shall not be reappointed without the consent of the state board of health. In case of death, removal or resignation of any county or city health officer created under this act, the vacancy shall be immediately filled by the county judge and commissioners at their first meeting, or mayor and the common council, as the case may be, under the provisions of this section, who shall hold his office until the end of the term unless removed for cause as in this act provided. In case of refusal or neglect by the said county or city officers to appoint a county or city health officer for a period of thirty days following such vacancy, the state health officer shall make such appointment. The office of the secretary of the county board of health shall be at the county seat. All county or city health officers shall possess the powers of constables or other peace officers in all matters pertaining to the public health. (L. 1905, ch. 170, Sec. 1; L. O. L. Sec. 4695; L. 1919, ch. 264, Sec. 9; O. L. Sec. 8369; L. 1923, ch. 129; L. 1927, ch. 319, Sec. 1, p. 409; O. C. 1930, Sec. 59-201.)

Sec. 99-202. Relation of Local Boards to State Board: Reports: Ownership of Books and Records: Place of Filing Records. The board of health of each county and city shall be subordinate to the state board of health, and it shall be the duty of the secretaries of such county boards to report such facts and

statistics, as may be required under instructions from and in accordance with blanks furnished by said board; and it shall be the duty of secretaries of city boards of health to make reports of such facts and statistics as may be required under instructions and in accordance with the blanks furnished by the state board to the secretaries of the county boards of health to which city boards of health are subordinate; provided, that all books and records kept by the secretary of the county or city board shall be the property of the county or city where such records are kept, and filed with the county clerk or city official where such records can be consulted without fee. (L. 1905, ch. 170, Sec. 2; L. O. L. Sec. 4696; L. 1919, ch. 264, Sec. 10, p. 385; O. L. Sec. 8370; O. C. 1930, Sec. 59-202.)

Sec. 99-203. State Board's Power When No Municipal Board Functions. When for some reason the city or municipal board of health do not exist or should be inoperative, the state board of health shall have power and shall order nuisances, or the cause of any special disease or mortality, to be abated and removed. (L. 1907, ch. 70, Sec. 11, p. 122; L. O. L. Sec. 4724; O. L. Sec. 8371; O. C. 1930, Sec. 59-203.)

Sec. 99-204. County Boards Authorized by Election: Establishment by County Court: Ex Officio and Appointed Members: Term of Office of Appointed Members. The county court of any county may establish a county board of health, when authorized so to do by a majority of voters of the county at any general or special election, as hereinafter provided:

The county board of health shall consist of one member of the county court selected by the court, the county school superintendent, and the mayor of the largest city of the county which has not withdrawn from participation under this act, who shall be known as the ex officio members, and one physician who has been licensed to practice medicine in this state by the state board of medical examiners, one dentist who has been licensed to practice dentistry in this state by the state board of dental examiners, and two laymen to be appointed by the ex officio members; provided, however, that in counties in which a member of the state board of health is a resident he automatically shall be the physician member of said county board of health during the continuance of his residence in such county.

The term of office of each of the appointed members shall be four years, the term of one to expire annually on the first day of February, the first appointments to be for terms of one, two, three and four years, as designated by the ex officio members of the board. (L. 1931, ch. 398, Sec. 1, p. 853; O. C. 1935 Supp., Sec. 59-204; L. 1937, ch. 301, Sec. 1, p. 447.)

Sec. 99-205. Abolition of City Boards of Health: Option of City to Maintain Separate Board: Appropriations by City or School District To Be Expended by County Board of Health. Whenever any county court establishes a county board of health under the provisions of this act, all city boards of health in such county shall be abolished, and such board of health shall have charge of all health activities in the county, except that any city having a population of 5,000 or more may elect to maintain a separate board of health, under the provisions of existing laws. Any city or any school district in such county hereby is authorized to appropriate money to be expended for public health measures in such city or school district by the county board of health. (L. 1931, ch. 398, Sec. 2, p. 854; O. C. 1935 Supp., Sec. 59-205.)

Sec. 99-206. Powers and Duties. It shall be the duty of the county board of health to administer and enforce the health and sanitary laws of the state and of any city within the county participating under this act. The board may conduct any activities for the preservation of health or the prevention of disease within the county that it may deem necessary. The board shall have all the powers and duties imposed upon county boards of health by section 99-201, unless otherwise provided herein. (L. 1931, ch. 398, Sec. 3, p. 854; O. C. 1935 Supp., Sec. 59-206.)

Sec. 99-207. Secretary: Employment: Duties, Qualifications, and Salary: Employment and Compensation of Assistants. The county board of health shall employ a secretary, who shall be county health officer, and who shall devote his entire time to such duties. He shall be a licensed physician and surgeon, licensed to practice in the state.

The board, with approval of the county court, shall fix the salary of the secretary and may employ such assistants as may be necessary to carry out the health program of the county, and fix the compensation

thereof. (L. 1931, ch. 398, Sec. 4, p. 854; O. C. 1935 Supp., Sec. 59-207.)

Sec. 99-208. Quarters and Funds of Board. The county court shall provide suitable quarters for the office and health work of the county board of health and shall appropriate sufficient funds for the successful administration of the board. (L. 1931, ch. 398, Sec. 5, p. 854; O. C. 1935 Supp., Sec. 59-208.)

Sec. 99-209. Board in Lieu of That Provided for in Section 99-201. Whenever a county board of health is created under the provisions of this act, such board shall be in lieu of the board provided for in section 99-201. (L. 1931, ch. 398, Sec. 6, p. 854; O. C. 1935 Supp., Sec. 59-209.)

QUARANTINE

Sec. 99-301. Report of Communicable Diseases: Persons Required To Report: Contents. It shall be the duty of all physicians, and all other persons practicing the art or science of healing of human beings, and all persons having the care of persons affected with any communicable disease, including heads of households, immediately upon the development of the disease so as to show its communicable character, to report to the local health officer within whose jurisdiction such sick person may be located in the manner required by the rules and regulations of the state board of health and upon blanks supplied by said board, the name and address of any person afflicted with any communicable disease on which the state board of health requires a report, together with the nature of the disease and such other information as shall be required by the state board of health. It shall be the duty of any person required to make a report under this statute either to procure from the county health officer a blank furnished by the state board of health for the making of such report, or to make such report in writing and furnish therein information required by the state board of health. (L. 1919, ch. 264, Sec. 22, p. 385; O. L. Sec. 8389; O. C. 1930, Sec. 59-312.)

Sec. 99-302. House Quarantine: Placarding House: Duties of Physicians. It shall be the duty of the county or municipal board of health when a case of any communicable disease in which quarantine or placard is required is reported to at once cause to be placed in a conspicuous place on the house both at front and rear entrances to same, where any such disease exists, a quarantine card, flag, or notice as provided by the rules and regulations of the state board of health, and to prohibit entrance to or exit from such house without a written permission from the health officer or executive officer of said local board; except attending physician, and every physician attending a person affected with any communicable disease, so designated by the state board of health, shall use such precautionary measures to prevent the spread of the disease as may be required by the state, county or municipal board of health; provided, that in case of failure of county or municipal board of health, or when no such board is organized, it at once becomes the duty of the state health officer to enforce such quarantine or other measure as he may deem best; and provided further, that every physician shall exercise the duties of health officer until such county or municipal health officer shall be notified of the existence of such communicable disease. (L. 1919, ch. 264, Sec. 12, p. 385; O. L. Sec. 8378; O. C. 1930, Sec. 59-302.)

Sec. 99-303. Defacement, Removal, Etc., of Quarantine Notices Prohibited: Rules as to Duration of Quarantine: Quarantine Guards. No person shall mar, remove, deface, destroy, or in any way or manner obscure such quarantine notice which shall remain in place until after the person affected is removed from such house or has recovered and is no longer capable of communicating the disease, and the said house and the contents thereof have been properly cleaned and disinfected by either the county or municipal board of health, or the state board of health, or some of its officers or agents; provided, that the state board of health shall have power to make rules and regulations prescribing the number of days a person affected with any communicable disease shall remain amenable to any quarantine, closure, restriction or safeguard measure. The county or municipal board of health, or the state board of health, may employ as many persons as it deems necessary to execute its orders and properly guard any house or place containing any person or persons affected with any of the communicable diseases as provided in sec-

tion 99-302, or who have been exposed thereto; and such persons shall be sworn as quarantine guards, shall have police powers, and may use all necessary means to enforce the provisions of this act for the prevention of contagious and infectious diseases, or the orders of state, county or city health officer made in pursuance thereof. (L. 1919, ch. 264, Sec. 13, p. 385; O. L. Sec. 8379; O. C. 1930, Sec. 59-303.)

Sec. 99-304. Magistrate's Authority To Issue Warrants, Impress Necessaries, and Enforce Health Measures. Any magistrate authorized to issue warrants in criminal cases shall issue a warrant upon affidavit of any member of the county, municipal or state board of health, or the executive officer of the state board of health, directing the warrant to the sheriff of the county or his deputy, or to any constable or police officer, requiring them under the direction of the board to remove any person who is infected with a communicable disease, or to impress or take up convenient houses, lodging, nurses, attendants and other necessaries; or to enforce any or all measures of the state health office. (L. 1919, ch. 264, Sec. 14, p. 385; O. L. Sec. 8380; O. C. 1930, Sec. 59-304.)

Sec. 99-305. Providing for Quarantined Persons: Payment of Expenses Therefor: Assistance by County Welfare Commission. When a house or other place is quarantined on account of a communicable disease, it shall be the duty of the board of health having jurisdiction to provide for all persons confined in such place food, fuel and all of the necessities of life, including medical attendance, medicine and nurses, when necessary; and the expenses so incurred when properly certified by such executive officer of such board shall be paid by the person or persons quarantined, when able to make such payment mentioned. The county public welfare commission of the county in which the person is quarantined may provide general assistance, including medical care for such person, on the basis of need, provided that no payment shall be made by the county public welfare commission for the care of any such person in or under the care of any public institution or public agency or municipality. (Am. L. 1941, ch. 144, Sec. 1.)

Sec. 99-306. Occupants of Quarantined House Prohibited from Attending Gatherings. No person residing in or occupying any house in which there is a

person suffering from any communicable disease requiring absolute quarantine, shall be permitted to attend any public, private, parochial school or college or Sunday school or any other public or private gathering until the quarantine provided for in such disease has been removed by the board of health. (L. 1919, ch. 264, Sec. 16, p. 385; O. L. Sec. 8382; O. C. 1930, Sec. 59-306.)

Sec. 99-307. Quarantine Hospital: Establishment: Emergency Seizure of Building as Hospital, and Compensation Therefor: Control of Hospital. Any city or municipality may establish a quarantine hospital within or without its own limits, but if within its own limits, consent of the municipality within which it is proposed to establish such hospital shall be first obtained; provided, that such consent shall not be necessary if such hospital is more than eight hundred feet from any occupied house or public highway; and when a great emergency exists the board of health may seize and occupy temporarily for such quarantine hospital any suitable vacant house or building within its jurisdiction, and the board of health of any city or municipality having a quarantine hospital shall have control over the same; provided, however, that in case of use of such house or premises, due compensation shall be tendered for the use of the same. (L. 1907, ch. 70, Sec. 8; L. O. L. Sec. 4721; L. 1919, ch. 264, Sec. 17, p. 385; O. L. Sec. 8384; O. C. 1930, Sec. 59-307.)

Sec. 99-308. Quarantine of Vessels and Vehicles: When Authorized: Rules and Regulations: Operation of Public Conveyances Not To Be Prohibited: Report of Action to State Health Officer. The state board of health or the board of health of any incorporated city or village in time of epidemic or threatened epidemic, or when any dangerous communicable disease is unusually prevalent, may, after personal investigation by the members or member or the executive officer of such board to establish the facts in the case, and not otherwise, impose a quarantine on vessels, railroads, stages, or any other public or private vehicle or vehicle conveying persons, baggage or freight, or used for such purpose, and make or enforce such rules and regulations as such board may deem wise and necessary for protection of the health of the people of the community or the state; provided, however, that the running of any train or any cars, or any steam or electric railroad, or of steamboats, vessels, or other public conveyances shall not be prohibited; provided

further, that the state health officer must be immediately informed of such action. A true copy of such rules and regulations, adopted by a local board of health, must have the approval of the state board of health, and thereafter no changes shall be made without such approval. (L. 1907, ch. 70, Secs. 1, 2; L. O. L. Secs. 4714, 4715; L. 1919, ch. 264, Sec. 11, p. 385; O. L. Sec. 8372; O. C. 1930, Sec. 59-301.)

Sec. 99-309. Submission to Rules and Regulations: Examinations: Penalty for Unfounded Statements Under Examination. Whenever quarantine or closure or other measure is declared, all railroads, steamboats or other common carriers, and the owners, consignees, or the assignees of any railroad, steamboat, stage or other vehicle used for the transportation of passengers, baggage or freight, shall submit to any rules or regulations imposed by the board of health or health officer; they shall submit to any examinations required by the health authorities respecting any circumstances or event touching the health of the crew, operatives or passengers, and the sanitary condition of the baggage or freight; and any owner, consignee, or assignee, or other person interested as aforesaid, who makes any unfounded statement or declaration respecting the points under examination, shall, upon conviction thereof before any court or justice of the peace having jurisdiction, be subjected to the penalties herein provided for the violation of the requirements of this act and the orders of the state, county or municipal boards of health. (L. 1907, ch. 70, Sec. 9; L. O. L. Sec. 4722; L. 1919, ch. 264, Sec. 18, p. 385; O. L. Sec. 8385; O. C. 1930, Sec. 59-308.)

Sec. 99-310. Inspection of Conveyances and Vessels Entering State. Whenever there shall exist in the opinion of the state board of health imminent danger of the introduction of any dangerous communicable disease into the state of Oregon, by means of railroad, steamboat, or other communication with other states, the said state board of health is authorized and it is hereby made its duty to make, through its executive officer or some member of the board, or accredited inspector or agent, an inspection of all roadroad cars, steamboats or other conveyances coming into the state, at such points or between such points within the state limits, as may be selected for this purpose. Such inspection shall be made, where practical, during the ordinary detention of a train at a station, or while in transit between stations, or if a steamboat, while in port, and in all cases shall be

so conducted as to occasion the least possible detention or interruption of travel or inconvenience to the railroad companies or steamship companies, so far as consistent with the purposes of this act. (L. 1907, ch. 70, Secs. 12, 13; L. O. L. Secs. 4725, 4726; L. 1919, ch. 264, Sec. 20, p. 385; O. L. Sec. 8387; O. C. 1930, Sec. 59-310.)

Sec. 99-311. Powers of Health Officer upon Discovery of Disease: Jurisdiction to Determine Emergency. Should discovery be made of the existence among the passengers of any case or cases of dangerous communicable disease, the health officer or his agents or inspectors, under rules and conditions prescribed by the state board of health, as being applicable to the nature of the disease, shall have power to cause the sidetracking or detention of any cars so infected, or, if a steamboat, detain in port, to isolate the sick or remove them to a suitable place for treatment, to establish a suitable station, to cause the passengers and material in such infected car or steamboat to be subjected to disinfection and cleansing before proceeding farther into the state, and to offer free immunization in those diseases to which such prophylactic treatment is applicable, to all persons exposed in any car or at any station or port. Should any question arise as to the existence of any emergency the state board of health shall have final jurisdiction. (L. 1907, ch. 70, Sec. 14; L. O. L. Sec. 4727; L. 1919, ch. 264, Sec. 21, p. 385; O. L. Sec. 8388; O. C. 1930, Sec. 59-311.)

Sec. 99-312. Authority of County Board of Health: Quarantine Against Other County or State: Quarantine of Disease Within County: Requiring Enforcement of Quarantine. Every county board of health shall have power to quarantine against any other county or counties or adjoining states, subject to approval of the state board of health, when any dangerous communicable disease exists, if in its judgment it is deemed necessary, and shall also have the power to quarantine any case of communicable disease within the county; it shall have authority to call all police officers, sheriffs, and constables, and all county officers to enforce such quarantine, subject to the authority of the state health officer. (L. 1907, ch. 70, Sec. 10; L. O. L. Sec. 4723; L. 1919, ch. 264, Sec. 19, p. 385; O. L. Sec. 8386; O. C. 1930, Sec. 59-309.)

MISCELLANEOUS PROVISIONS FOR PUBLIC BENEFIT

Sec. 99-401. Convict-made Goods To Be Disinfected and Labeled: Regulation as to Advertising. No person, firm or corporation within this state shall sell, offer, keep, expose or display for sale any goods, wares or merchandise, made in whole or in part by convict labor in any penitentiary, prison, reformatory or other establishment outside the state of Oregon in which convict labor is employed, unless such commodity has been first properly disinfected, in accordance with the rules and regulations of the state board of health, and unless such convict-made goods, wares or merchandise offered, kept, exposed or displayed for sale are labeled permanently, plainly and legibly with the words "These Goods Are Convict-made" in plain, bold letters, followed by the name of the penitentiary, prison, reformatory or other establishment in which the goods, wares or merchandise were made; provided, that when advertised in any periodical or publication the wording herein required shall appear in type and/or letters conforming in size and shape to those used in the general text of said periodical or publication. (L. 1929, ch. 133, Sec. 1, p. 100; O. C. 1930, Sec. 59-402.)

Sec. 99-402. Punishment of Violator of Act. Any person or officer of any corporation who shall violate any of the provisions of section 99-401 shall be guilty of a misdemeanor and, upon conviction therefor, shall be liable to a fine of not less than \$50 nor more than \$500 and/or imprisonment in the county jail for not less than 30 days nor more than six months. (L. 1929, ch. 133, Sec. 2, p. 100; O. C. 1930, Sec. 59-403.)

Sec. 99-403. Communicable Diseases: Exposure of Library Books; Disinfecting Books Exposed. No books shall be loaned from a public library, or from a privately owned circulating library, to any person afflicted with any communicable disease, or to a person living in a residence wherein such case of communicable disease exists. In case a book is loaned unknowingly, or such disease occurs while (the) book is loaned, such book when returned to the library must be disinfected in accordance with the rules and regulations of the state board of health. (L. 1919, ch.

264, Sec. 28, p. 385; O. L. Sec. 8395; O. C. 1930, Sec. 59-404.)

Sec. 99-404. Exposed Merchandise: Receipt, Inter-mingling, or Sale Without Disinfection Prohibited. It shall be unlawful for any person, firm or corporation having delivered merchandise, such as clothing, wearing apparel of every description, hair goods, brushes, rubber goods, books, mattresses, blankets, sheets, pillows or other kinds of bedding, to any person or persons, firm or institution at or thereafter taken to any place where any communicable disease exists or may exist, after the delivery of such merchandise, and intermingle the same with the goods for sale or offer the same for sale or sell the same, or to receive any merchandise from any place or premises where any communicable disease exists or has existed, and intermingle such goods with other goods for sale or offer the same for sale or sell the same, until such goods has (have) been thoroughly disinfected in accordance with the rules and regulations of the state board of health. (L. 1917, ch. 387, Secs. 1, 2; L. 1919, ch. 264, Sec. 29, p. 385; O. L. Sec. 8396; O. C. 1930, Sec. 59-405.)

Sec. 99-405. Use of Public Conveyance by Afflicted Person. It shall be unlawful for any person knowing himself or herself to be afflicted with a dangerous communicable disease to use any public conveyance, street car, railroad car or taxicab, and it shall also be unlawful for any person or persons to knowingly assist such afflicted person by the use of any such public conveyance, and such person shall be liable for punishment under this act. (L. 1917, ch. 387, Sec. 3; L. 1919, ch. 264, Sec. 30, p. 385; O. L. Sec. 8397; O. C. 1930, Sec. 59-406.)

Sec. 99-406. Spreading Disease: Penalty. If any person shall infect himself or suffer himself to be infected, or shall infect another with any malignant communicable disease, within this state, or being so infected shall come within this state with the intent to cause the prevalence or spread of such disease within the state, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than three years. (L. 1919, ch. 264, Sec. 31, p. 385; O. L. Sec. 8398; O. C. 1930, Sec. 59-407.)

Sec. 99-407. Health Officer Introducing Disease: Penalty. If, by reason of the negligence or ineffic-

iciency of the health officer, any contagious disease shall be introduced among the inhabitants of this state, such officer shall, on conviction, be fined in any sum not exceeding \$1,000, or be imprisoned in the county jail not exceeding three months, or by both such fine and imprisonment. (L. 1870, Sec. 6, p. 103; D. & L. Sec. 724; H. Sec. 1987; B. & C. Sec. 2137; L. O. L. Sec. 2248; O. L. 2248; O. C. 1930, Sec. 14-928.)

Sec. 99-408. Shaving Tools To Be Disinfected Before Re-use: Punishment. Any person who shaves another person, who does not, before he again uses his tools, towels or water, subject them to (such) disinfection as may remove any virus, scale or filth that may be on such tools, towels or instrument in accordance with the rules and regulations of the state board of health, shall be guilty of a misdemeanor and shall be punished as provided in this act. (L. 1919, ch. 264, Sec. 32, p. 385; O. L. Sec. 8399; O. C. 1930, Sec. 59-408.)

Sec. 99-409. Examination of Ships and Performance of Orders of Health Officers: Entering Columbia River with Smallpox on Board: Penalty. It shall be the duty of every shipmaster to submit his ship to a full and free examination by the health officer, and to obey and perform all the lawful orders and directions of such officer, and every shipmaster who shall fail or refuse so to do, or who shall permit his ship to enter the (Columbia) river with the smallpox on board, without displaying a yellow flag, shall, on conviction, be fined in any sum not exceeding \$300, or imprisoned in the county jail not exceeding three months, or by both such fine and imprisonment. (L. 1870, Sec. 5, p. 102; D. & L. Sec. 723; H. Sec. 1986; B. & C. Sec. 2136; L. O. L. Sec. 2247; O. L. Sec. 2247; O. C. 1930, Sec. 14-927.)

Sec. 99-410. Federal Grants for Promoting Health, Etc.: State Board of Health as State Agency. The state board of health hereby is designated as the state agency to apply to and receive from the federal government or any agency thereof such grant or grants for promoting public health and the prevention of disease, including grants for cancer control, mental hygiene and industrial hygiene programs, as may now or hereafter be available to the state of Oregon or any of its political subdivisions or agencies. (L. 1941, ch. 391, Sec. 1A; L. 1947, ch. 154, Sec. 1.)

Sec. 99-411. Powers of State Board. To these ends and purposes the state board of health is authorized, directed and empowered:

1. To disburse or supervise the disbursement of all funds made available at any time by the federal government or the state of Oregon for said purposes; except the funds made available by the state for the care of dependent or delinquent children in public or private institutions.

2. To adopt, carry out and administer a plan or plans for any such purposes. Such plan or plans so adopted shall be made statewide in application in so far as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the federal government or any of its agencies, not contrary to or inconsistent with the laws of the state.

3. To establish a merit system covering the employed personnel of district and county health departments engaged in the administration of public health laws, and to promulgate rules and regulations necessary to establish and maintain such a merit system. (L. 1941, ch. 391, Secs. 2, 3; Am. L. 1947, ch. 154, Sec. 2.)

TUBERCULOSIS PREVENTION REGULATIONS

Sec. 99-601. Duty to Report Cases: Record of Patients To Be Kept: Notice of Removal from Place of Residence. Any representative of a religious denomination or any householder, or any nurse, parent, guardian, or other person attending or in any way having knowledge of the existence of a case of pulmonary tuberculosis, including the person afflicted therewith, must immediately report the same to the state board of health. The names and addresses of all persons afflicted with pulmonary tuberculosis shall be recorded in the office of the state board of health, and it shall be unlawful for any person suffering from this disease to change his or her residence or to be removed therefrom until the state board of health has been notified so that (the) vacated residence may be fumigated. (L. 1913, ch. 115, Secs. 2, 3; L. 1919, ch. 264, Sec. 35, p. 385; O. L. Sec. 8417; O. C. 1930, Sec. 59-601.)

Sec. 99-602. Investigation of Cases Reported: Duty and Control of Board Over Person Afflicted. The state board of health shall, upon receiving a report that

any person is suffering from tuberculosis, make such investigation of the case as is necessary to determine whether or not the person reported is suffering from communicable tuberculosis. Upon finding that any person is suffering from communicable tuberculosis it shall be the duty, and the state board of health hereby is authorized to exercise such control over the person so afflicted and his contacts with other persons as may be necessary for the protection of the public health, pursuant to its rules and regulations. In exercising such control over such afflicted person the state board of health may make such rules or orders governing such person's conduct as are necessary to prevent the spread of the disease. (L. 1939, ch. 451, Sec. 1, p. 882.)

Sec. 99-603. Interference with Individual's Selection of Physician or Treatment or with Religious Practice Prohibited. Provided that nothing in this act shall be construed to empower or authorize the state board of health or its representatives, or any county board of health or its representatives, or any city board of health or its representatives, to interfere with the individual's right to select the physician or mode of treatment of his choice, nor to interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means; provided, however, that sanitary laws, rules and regulations are complied with. (L. 1939, ch. 451, Sec. 2, p. 882.)

S. 99-604. Duty To Report Change of Residence of Person Afflicted. It shall be the duty of any physician or any representative of a religious denomination, or any householder, nurse, parent, guardian or other person having knowledge of a change of residence of any person afflicted with pulmonary tuberculosis to report the same to the state board of health. (L. 1913, ch. 115, Sec. 4; L. 1919, ch. 264, Sec. 36, p. 385; O. L. Sec. 8418; O. C. 1930, Sec. 59-602.)

Sec. 99-605. Fumigation: Materials Used by Person Afflicted. No furniture, bedding, or other materials used by a person afflicted with pulmonary tuberculosis shall be sold, delivered or used by any other person until such furniture, bedding or material has been fumigated. Fumigation or disinfection shall be in accordance with rules prescribed by the state board of health. (L. 1913, ch. 115, Sec. 5; L. 1919, ch. 264, Sec. 37, p. 385; O. L. Sec. 8419; O. C. 1930, Sec. 59-603.)

Sec. 99-606. Premises. Any person owning a house rented to or occupied by a person afflicted by tuberculosis shall fumigate or disinfect the same forthwith upon the leaving of the house by such person. (L. 1913, ch. 115, Sec. 6, p. 210; O. L. Sec. 8420; O. C. 1930, Sec. 59-604.)

VENEREAL DISEASES

Sec. 99-701. Authority of State Board of Health To Make Rules and Regulations: Effect on Local Health Officers. The state board of health is hereby empowered and directed to make such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this act, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of section 59-703, and such other rules and regulations not in conflict with provisions of this act, concerning the control of venereal diseases, and concerning the care, treatment and quarantine of persons infected therewith, as it may from time to time deem advisable. All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this act, and shall have the force and effect of law. (L. 1919, ch. 264, Sec. 60, p. 385; O. L. Sec. 8427; O. C. 1930, Sec. 59-705.)

Sec. 99-702. Advertising Concerning Treatment of Sexual Diseases, Etc., Prohibited: Excepted Agencies. It shall be unlawful for any person, or persons, firm, corporation or association, except boards of health, or agencies approved by the state board of health to publish, deliver or distribute, or cause to be published, delivered or distributed in any manner whatever, or to permit placards or posters to be or remain on buildings or outhouses or premises controlled by him containing an advertisement concerning venereal disease, lost manhood, lost vitality, impotency, sexual weakness, seminal emissions, varicocele, self-abuse or excessive sexual indulgence and calling attention to a medicine, article or preparation that may be used therefor or to a person or persons from whom, or an office or place at which information, treatment or advice may be obtained. (L. 1919, ch. 264, Sec. 61, p. 385; O. L. Sec. 8428; O. C. 1930, Sec. 59-706.)

Sec. 99-703. Punishment of Advertiser and Publisher. Any person who shall advertise or publish any advertisement intended to imply or to be understood that he will restore manly vigor, treat or cure lost manhood, lost power, stricture, gonorrhea, chronic urethral discharges, gleet, varicocele or syphilis, or any person who shall advertise any medicine, medicinal preparation, remedy or prescription for any of the ailments or diseases enumerated in this act, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a period of not less than six months nor more than 12 months, or by both such fine and imprisonment. Any owner or managing officer of any newspaper in whose paper shall be printed or published any such advertisement, as is described in this act, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a period of not less than six months nor more than 12 months, or by both such fine and imprisonment. (L. 1909, ch. 159, p. 229; L. O. L. Sec. 2095; L. 1913, ch. 254; O. L. Sec. 2095; O. C. 1930, Sec. 14-730; L. 1933, ch. 367, Sec. 1, p. 588.)

Sec. 99-704. Sale of Drug for Treating Venereal Disease Without Prescription Prohibited. It shall be unlawful for any druggist or other person to sell any drug, compound or specific preparation of any kind used for, or reasonably intended to be used for, the cure or treatment of any venereal diseases, except upon the prescription of a regularly licensed physician. (L. 1919, ch. 264, Sec. 62, p. 385; O. L. Sec. 8429; O. C. 1930, Sec. 59-707.)

Sec. 99-705. Venereal Diseases Designated: Declared Communicable. Syphilis, gonorrhea and chancroid hereby are designated as venereal diseases and declared to be infectious and communicable diseases, dangerous to the public health. (Am. L. 1941, ch. 126, Sec. 1.)

Sec. 99-706. Report to State Board of Health: Duty of Examining Physician: Form and Contents: Duplicate Report. Every physician making an examination which shall indicate the existence of a syphilitic, gonorrheal or chancroidal infection in any person or persons shall report immediately the results of said

examination to the state board of health on blanks furnished by said board. Such report shall not require the name nor address of the patient but shall be by number only, together with such other information as the board of health may require. A duplicate of such report, including the correct name and address of the patient, shall be retained permanently by said physician making the examination. (Am. L. 1941, ch. 126, Sec. 2.)

Sec. 99-707. Report of Person Treating or Furnishing Medicine. Every physician treating or attempting to treat any case of any of the venereal diseases mentioned in this act in any manner, and every physician, nurse or other person selling or giving away any compound, medicine or formula, which either by itself or in connection or conjunction with any other treatment, medicine or compound, is claimed to be useful, or to cure, relieve or to arrest in any way or manner any such venereal disease, shall report to the state board of health on blanks furnished by said board the existence of said case of venereal disease, including all information required by the board of health, except the name and address of the applicant for treatment. A duplicate of such report, including the correct name and address of the applicant for treatment, shall be retained permanently by the physician. (Am. L. 1941, ch. 126, Sec. 3.)

Sec. 99-708. Rules and regulations for Quarantine and treatment: Disclosure of names and Addresses of Persons Reported or Treated Prohibited. The state board of health shall make and enforce such rules and regulations for the quarantining and treatment of any cases of the venereal diseases mentioned in this act reported to it or to the state health officer as may be deemed necessary for the protection of the public. Said board or officer shall not disclose the names or addresses of such persons reported or treated to any person excepting its own officers or employees or local health officers as may be necessary in the line of duty or to a prosecuting officer or in court in prosecutions or trials under this or any other state law. (L. 1935, ch. 320 Sec. 4, p. 496; O. C. 1935 Supp., Sec. 59-711.)

Sec. 99-709. Facilities for Laboratory Examination and Treatment To Be Provided: To Whom Available: Procedure To Secure Use: Who May Make Laboratory Examinations in Other Cases. The state board

of health shall provide facilities for the necessary laboratory examinations for the diagnosis of the venereal diseases and shall provide the necessary materials for the proper treatment of these diseases. These services shall be available to city and county boards of health and health officers in the examination of such cases as are included under sections 99-711, 99-712, 99-715 and 99-718, and to all physicians of the state of Oregon licensed by the state board of medical examiners in the diagnosis or treatment of such cases of venereal disease as apply to such physicians for medical care. Such laboratory examinations and treatment materials shall not be furnished to physicians by the state board of health or its officers or employes until the physician shall furnish complete information required for the registration of the case, including the correct name and address of the patient, and a statement signed by the physician certifying to the fact that he is making and will make no charge to the person on whom the tests are to be made or for whom treatment materials are requested for the test or services in securing the specimen of body fluid, secretion or excretion on which laboratory examination is requested or for the treatment of such a person based upon the indications of such tests. Upon the receipt of information that a physician has violated any of these provisions, the state board of health shall then refuse further to provide laboratory examinations or treatment materials to such a physician.

Laboratory examinations for the diagnosis of venereal diseases on such cases as are not hereinbefore included in this section shall be made only by physicians licensed by the state board of medical examiners of the state of Oregon or in laboratories approved by the state board of health. (Am. L. 1943, ch. 454, Sec. 1, effective March 30, 1943.)

Sec. 99-710. Examination of Reported or Suspected Person: Duty of Local Board or Officer to Examine and of Person to Submit Thereto: Power of State Health Officer. Whenever any local board of health or health officer shall receive a report from the state health officer or any person authorized by him to make such report, that any person within the jurisdiction of said local board or health officer is, or is suspected to be suffering from or infected with any infectious venereal disease, said local board or health officer may cause a medical examination to be made of such person for the purpose of ascertaining whether or not he or she is in fact suffering from or infected with such disease, and it shall be the duty of

every such person to submit to such examination as aforesaid and to permit such specimens of blood or bodily discharges to be taken for laboratory examinations as may be necessary to establish the presence or absence of such disease or infection. The state health officer may himself take any action hereunder which a local health officer is empowered to take. (L. 1935, ch. 320, Sec. 6, p. 497; O. C. 1935, Supp., Sec. 59-713.)

Sec. 99-711. Prostitutes and Lewd Persons as Suspected Persons: Issuance of Certificate of Freedom from Disease Prohibited. All prostitutes or other lewd persons hereby are included under the class of suspected persons described in section 99-710, and may be required to submit to examination at any time, but no certificate of freedom from venereal disease shall be issued by any health officer or physician, or laboratory operator, or other person to any prostitute. (L. 1935, ch. 320, Sec. 7, p. 498; O. C. 1935 Supp., Sec. 59-714.)

Sec. 99-712. Isolation of Persons Refusing to Submit to Examination or Persons Infected: Place and Limits of Area of Isolation: Who May Enter or Leave Area. Any person called upon to submit to an examination under the provisions of section 99-710 or section 99-711 who refuses to do so, or who refuses to supply or permit to be taken the specimens provided for in said section 99-710, or who, upon examination, is found to be suffering from a venereal disease in an infectious stage, and who, by reason of his habits, occupation, or for any other reason, is likely to spread the disease to others, may, in the discretion of said board of health or health officer, either state or local, be isolated, and such isolation continued until such person is determined by suitable examination to be no longer infectious. In establishing isolation, said board or officer shall definite the place and the limits of the area within which said person is to be isolated, and no person other than the attending physician or nurse shall enter or leave the area of isolation without the permission of said board or health officer. (L. 1935, ch. 320, Sec. 8, p. 498; O. C. 1935 Supp., Sec. 59-715.)

Sec. 99-713. Conduct and Occupations of Infected Persons. No person having any venereal disease in the infectious stage shall conduct himself in such a manner as to expose others to infection. No such person shall engage in the preparation, manufacture or han-

dling of milk, milk products or other foodstuffs, nor shall such person be employed or permitted to work in any dairy, creamery, milk depot or other place where milk or its products are produced, manufactured or sold, or in any other place or establishment where foods are exposed or handled. No person having a venereal disease in the infectious stage shall engage in the nursing or care of children or of the sick, or in any other occupation of such a nature that his or her infection may be transmitted to others. (L. 1935, ch. 320, Sec. 9, p. 498; O. C. 1935 Supp., Sec. 59-716.)

Sec. 99-714. Local Health Authorities To Ascertain and Investigate Cases and Sources. It shall be the duty of all local health authorities to use all reasonable means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not under the care of reputable physicians and to ascertain so far as possible all sources of infection and exposures of the same. (L. 1935, ch. 320, Sec. 10, p. 498; O. C. 1935 Supp., Sec. 59-717.)

Sec. 99-715. Duties of Attending Physician: Proceedings on Infected Person's Failure To Report for Treatment. It shall be the duty of every physician in attendance upon a person having an infectious venereal disease, or suspected of having such disease, to instruct such person in the precautionary measures for preventing the spread of the disease and in the necessity for systematic and prolonged treatment, and also furnish to such person printed directions for preventing infection, to be supplied to physicians by the state board of health on request. If a person in the infectious stage of a venereal disease shall fail to report to said physician for treatment by the physician when directed so to do, said physician shall report such failure on the part of said person to the local board of health or health officer or to the state health officer, which latter officer shall when cases are so reported to him forward the information to the local board of health or health officer, and such local board or health officer may thereupon require said person to be examined as provided for in section 99-710, and if, upon examination, said person is found to be suffering from a venereal disease, in its infectious stage, and does not present evidence to show that he is being regularly treated by a reputable physician for such disease, he shall be isolated, as de-

scribed in section 99-712. (L. 1935, ch. 320, Sec. 11, p. 498; O. C. 1935 Supp., Sec. 59-718.)

Sec. 99-716. Determination of Infectiousness. A case of syphilis, gonorrhea or chancroid shall be regarded as infectious until a physician licensed by the state board of medical examiners has examined the case and has reported to the local health department that the case is not infectious, but if in the opinion of the health officer of the jurisdiction the protection of the public health requires it, he shall have power to review the case and to cause a medical examination of any such case to be made by a physician designated by him, and the opinion of this physician as to the infectiousness or noninfectiousness of the case shall be final. (L. 1935, ch. 320, Sec. 12, p. 499; O. C. 1935 Supp., Sec. 59-719.)

Sec. 99-717. Permit To Change Residence. No person having a venereal disease in the infectious stage shall be removed from nor shall such person move from one health jurisdiction to another, without first securing the permission of the local health authorities of the place from which such removal is to be made, or from the state health officer. Before such permit shall be granted, the person making application therefor must show that (1) such removal can and will be made without endangering the health of others; (2) that the patient agrees to place himself under the care of a reputable physician to be named in the application for said permit. The health authority issuing such permit shall report to the local health authorities of the municipality to which such person purposes to go, the name of such person, the address to which he intends to go and the name and address of the physician by whom he will be treated. (L. 1935, ch. 320, Sec. 13, p. 499; O. C. 1935 Supp., Sec. 59-720.)

Sec. 99-718. Free Treatment to Indigents. Any person who is suffering from a venereal disease in the infectious stage and who is unable to pay for treatment may make application for care and treatment to the local board of health or health officer of the municipality in which said person resides. If said board or health officer, after investigation, finds that said person is in fact unable to pay for such treatment, said treatment shall be provided for such person by said board or health officer at the expense of said municipality or county. (L. 1935, ch. 320, Sec. 14, p. 499; O. C. 1935 Supp., Sec. 59-721.)

Sec. 99-719. Prisoners: Examination, Treatment, and Isolation: Construction of Act. All persons who shall be confined or imprisoned in any state, county or city prison in the state shall be examined for, and, if infected, treated for venereal diseases by the health authorities or their deputies. The prison authorities of any state, county or city prison are directed to make available to the health authorities such portion of any state, county or city prison as may be necessary for a clinic or hospital wherein all persons who may be confined or imprisoned in any such prison and who are infected with venereal disease, and all such persons who are suffering with venereal disease at the time of the expiration of their term of imprisonment, and, in case no other suitable place for isolation or quarantine is available such other persons as may be isolated or quarantined under the provisions of this act shall be isolated and treated at public expense until cured, or, in lieu of such isolation any of such persons may, in the discretion of the local board of health, be required to report for treatment to a licensed physician, or submit to treatment provided at public expense, provided, that all persons treated voluntarily or otherwise at public expense shall remain under such parole for one year as required by the rules and regulations of the state board of health. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime. (L. 1935, ch. 320, Sec. 15, p. 500; O. C. 1935 Supp., Sec. 59-722.)

Sec. 99-720. Power Conferred on Officers and Boards: Masculine Includes Feminine in Act. All power and authority necessary for the performance of the duties, discretionary or otherwise, imposed by this act upon any of the health officers or boards of this state, hereby is conferred upon such boards and officers. Throughout this act the masculine shall include the feminine gender. (L. 1935, ch. 320, Sec. 16, p. 500; O. C. 1935 Supp., Sec. 59-723.)

Sec. 99-721. Punishment of Violators of Act. Any person violating any provision of this act shall be guilty of a misdemeanor and punishable by a fine not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or by imprisonment for a term of not less than ten (10) days nor more than thirty (30) days or by both such fine and imprisonment. (L. 1935, ch. 320, Sec. 17, p. 500; O. C. 1935 Supp., Sec. 59-724.)

Sec. 99-722. Interference with Individual's Selection of Physician or Treatment or with Religious Practice Prohibited. Nothing in this act shall be construed to empower or authorize the state board of health or its representatives, or any county board of health or its representatives, or any city board of health or its representatives, to interfere in any manner with the individual's right to select the physician or mode of treatment of his choice, nor to interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means; provided, however, that sanitary laws, rules and regulations are complied with. (L. 1935, ch. 320, Sec. 18, p. 500; O. C. 1935 Supp., Sec. 59-725.)

Sec. 99-723. Pregnant Woman: Duty of Physician or Person Attending: Blood Specimen: Submission of Specimen to Syphilis Test: Consent. It hereby is declared to be the duty of every licensed physician attending a pregnant woman in this state for conditions relating to her pregnancy during the period of gestation or at the time of delivery, in the case of every woman so attended, to take or cause to be taken a sample of blood of such woman at the time of the first professional visit, or within 10 days thereafter. The blood specimen thus obtained shall be submitted to an approved laboratory for a standard test for syphilis. It hereby is declared to be the duty of every other person permitted by law to attend a pregnant woman in this state, but not permitted by law to take blood samples, to cause a sample of blood of such pregnant woman to be taken by a duly licensed physician or surgeon, and to have such sample submitted to an approved laboratory for a standard test for syphilis, provided, however, in all cases the physician or surgeon must have the consent of the patient to take blood samples. (L. 1941, ch. 212, Sec. 1.)

Sec. 99-724. Standard Test, What Constitutes: Charges. For the purposes of this act a standard test shall be a test for syphilis approved by the state board of health of Oregon, made by a laboratory approved to make such tests. Such laboratory tests as are required by this act shall be made on request without charge at the laboratory of the Oregon state board of health, and no charge shall be made to any patient by the physician for services in securing the specimen of body fluid on which laboratory examination is requested. (L. 1941, ch. 212, Sec. 2.)

Sec. 99-725. Birth Certificate, Statement as to Making Syphilis Test, or Reason for Failure. In reporting every birth and stillbirth physicians and others required to make such reports shall state on the certificate whether or not a test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed, and the approximate date when the specimen was taken. In no event shall the birth certificate state the result of the test. If no specimen is taken the reason for failure to take it shall be stated on the certificate. (L. 1941, ch. 212, Sec. 3.)

EYES OF INFANTS

Sec. 99-801. Inflamed Eyes To Be Reported: Duties of Health Officer. Should one or both eyes of an infant become inflamed or swollen or reddened at any time within two weeks after birth, it shall be the duty of the attending physician, midwife or nurse, or other person having the care of such infant, to report in writing within twenty-four hours after the discovery thereof, to the health officer or to a legally qualified practitioner of the city, town or district in which the mother of the child resides, the fact that such inflammation or swelling or redness exists. It shall be the duty of said health officer, immediately upon receipt of said written report, to notify the parents or the person having charge of said infant of the danger to the eye or eyes of said infant by reason of said condition from neglect of proper treatment of the same, and he shall also inclose to them directions for the proper treatment thereof. (L. 1915, ch. 210, Secs. 1, 2; L. 1919, ch. 264, Secs. 63, 64, p. 385; O. L. Sec. 8430; O. C. 1930, Sec. 59-801.)

Sec. 99-802. Furnishing Copy of Act to Nurses and Midwives. Every health officer shall furnish a copy of this act to each person who is known to him to act as midwife or nurse in the city or town from which such health officer is appointed, and the state board of health shall cause a sufficient number of copies of this act to be printed and supply the same to such health officer on application. (L. 1915, ch. 210, Sec. 3; L. 1919, ch. 264, Sec. 65, p. 385; O. L. Sec. 8431; O. C. 1930, Sec. 59-802.)

WATER SUPPLY: SEWAGE

Sec. 99-901. Healthfulness of Drinking Water: Precautions Against Contamination: Powers and Duties of Health Board: Sewage. In the interest of the public health, every person, company or municipal corporation or agency thereof selling water to the public for drinking and household purposes shall take every reasonable precaution to protect from contamination and assure the healthfulness of such water, and any provisions in any charters heretofore granted to such persons, companies, or municipal corporations in conflict with the provisions of this section are hereby repealed. The state board of health shall have the general oversight and care of all inland waters, and shall from time to time, as it may deem advisable, cause examinations of said waters and their sources and surroundings to be made for the purpose of ascertaining whether the same are adapted for use as water supplies for drinking and other domestic purposes, or are in a condition likely to impair the interests of the public or of persons lawfully using the same, or to imperil the public health. For the purpose aforesaid, it may employ such expert assistants as may be necessary. The said board shall make such reasonable rules and regulations as in its judgment may be necessary to prevent contamination and to secure other purifications as may be required to safeguard the public health. The state board of health shall from time to time consult with and advise the boards of all state institutions, the authorities of cities and towns, corporations or firms already having or intending to introduce systems of water supply, drainage or sewerage, as to the most appropriate source of supply, the best practical methods of assuring the purity thereof; or of disposing of their drainage or sewage, having regard to the present and prospective needs and interests of other cities, towns, corporations or firms which may be affected thereby. (L. 1919, ch. 264, Sec. 97, p. 385; O. L. Sec. 8460; O. C. 1930, Sec. 59-1101.)

Sec. 99-902. Municipal Water Supply: Plans Subject to Approval of State Board of Health. Any person, firm, corporation, municipality, water district, town or agency thereof desiring to provide a new water supply system for drinking or household purposes for more than fifty people or more than ten families shall, before performing any work on the ground, other than

making examination or surveys for the preparation or provision of such water supply, submit to the state board of health plans showing the source of the supply, and the transmission and distribution systems, with further information as to the amount proposed to be taken and transmitted, the drainage areas from which the waters are to be derived, the purity and wholesomeness of the supply, the kind and character of the works for gathering, storing and transmitting the water, and the number of persons to be supplied, together with any additional data which the board of health may require as, in its judgment, proper to enable it to pass intelligently upon the effect of such water supply upon the public health; provided; however, that any person, firm, corporation, municipality, water district, town or agency thereof desiring to extend any such existing water supply system which extension will serve more than fifty people or more than ten families shall first submit plans for such extension. No such work shall be undertaken or proceeded with until the board of health shall have approved such plans, either as originally offered or as modified pursuant to its requirements. (L. 1915, ch. 73, Sec. 1; L. 1919, ch. 264, Sec. 98; O. L. Sec. 8461; O. C. 1930, Sec. 59-1102; L. 1947, ch. 551.)

Sec. 99-903. Sewer System: Plans Subject to Approval of State Board of Health. Any city or town in the state proposing a sewer system or any individual or corporation proposing to install a system of sewerage or disposal of waste products for the use of more than five families or fifty persons shall, before undertaking any work on the ground, other than making surveys and preliminary plans, submit to the state board of health the full plans and specifications for the system, showing particularly the location of the outfall and the streams or other places of final disposal, and the method, if any, for the reduction, purification, or use of the sewage. No such plan shall be proceeded with or work done thereon until the plans and specifications either as originally proposed or modified are approved by the state board of health. (L. 1915, ch. 73, Sec. 2; L. 1919, ch. 264, Sec. 99, p. 385; O. L. Sec. 8462; O. C. 1930, Sec. 59-1103.)

Sec. 99-904. Periodical Analysis of Drinking Water: Duties of Local Health Officer. Every person, company, municipal corporation, city, town, water district, or agency thereof, as in this act provided who

shall sell or furnish water to any number of persons exceeding ten families or a total of fifty persons for drinking or household purposes, including its use in ice, shall, with the assistance of, or under the supervision of the local health officer collect samples of such water for bacteriological analysis at least once monthly or oftener if required by the state board of health. These samples shall be submitted to the state hygienic laboratory for examination or, with the approval of the local health officer, shall be submitted for such examination to a laboratory approved by the state board of health. The state hygienic laboratory shall report the results of its analysis to the local health officer if requested to do so and to the one responsible for the operation of the water supply. If a laboratory other than the state hygienic laboratory performs the examination, the results of the analysis shall, in addition to each of the above, be submitted to the state health officer. If the results of such bacteriological analyses of any public water supply as defined under the terms of this act shall indicate that the use of such water supply for human consumption is questionable, the state board of health shall so notify, in writing, the person, company, municipal corporation, city, town, water district or agency thereof selling or furnishing such water, and shall outline in writing such corrective measures as it may deem necessary to reestablish the purity of such water supply. In addition, the state board of health shall make available such technical assistance as may be required to aid in reestablishing the purity of such water supply. If the corrective measures for the protection of such water supply as outlined by the state board of health are not complied with in a reasonable length of time, then such water may be declared unfit for human consumption and the consumers thereof shall be so notified and advised as to the proper methods of treatment to render such water safe for drinking and household purposes. The provisions of this act shall not apply to any railroad company which is subject to the jurisdiction of the interstate commerce commission. (L. 1919, ch. 264, Sec. 103; O. L. Sec. 8465; O. C. 1930, Sec. 59-1106; Am. L. 1947, ch. 143, Sec. 1.)

Sec. 99-905. Inspection of Watershed Supplying Waterworks Nature and Scope of Inspection: Expense: Distribution of Literature: Reports. Every person, company, municipal corporation, city, town, water district or agency thereof selling or furnishing water to the public for drinking or household pur-

poses shall, when such water supply is derived from surface sources, conduct an annual sanitary inspection of the watershed of said source of water supply. In those cases in which the water supply is taken from a stream that has a minimum daily flow of 50 cubic feet of water per second said sanitary inspection shall apply to the 10 miles of watershed above the waterworks intake. The inspection of the watershed, as herein provided, shall include an examination of sewage and waste disposal facilities at houses, business establishments, industries, and buildings on the watershed, and said sewage and waste disposal facilities shall be constructed and operated in accordance with the regulations of the state board of health and the state sanitary authority, and whenever the person or persons conducting a sanitary inspection of a watershed as herein provided shall determine that sewage disposal facilities are not constructed and operated in conformance with the said regulation, notice thereof in writing shall be given to the person or company responsible for the premises. Said notice shall outline such defects in sewage or waste disposal facilities and shall demand correction within a reasonable length of time. A copy of all such notices shall be furnished to the state board of health. It shall further be the duty of every person or persons conducting sanitary inspection of watersheds under the provisions of this act to deliver to each family residing on the watershed such literature on pertinent sanitary subjects as may be supplied him by the local health officer or by the secretary of the state board of health. Full reports in duplicate of all such inspections shall be made promptly to the secretary of the state board of health. It is not intended that the term "watershed" shall include that land within the boundaries of a municipal corporation or uninhabited wooded tracts or fields that are free from suspicion. Additional sanitary inspections of a watershed may be required by the state board of health or local health officer whenever there is special reason to believe that there may be any new source of contamination of a public water supply. (L. 1919, ch. 264, Sec. 104; O. L. Sec. 8466; O. C. 1930, Sec. 59-1107; Am. L. 1947, ch. 175.)

Sec. 99-906. Penalty for Noncompliance With Act. Failure on the part of those having in charge the management of public water supplies to comply with the law requiring sanitary inspections of watersheds shall be a misdemeanor; provided, the said official does not prove to the satisfaction of the court that, in

spite of reasonable effort and diligence on his part, he was prevented, directly or indirectly, by his superiors from doing his duty in this respect; in which case the said superior officer shall be deemed guilty of a misdemeanor. (L. 1919, ch. 264, Sec. 105, p. 385; O. L. Sec. 8467; O. C. 1930, Sec. 59-1108.)

Sec. 99-907. Right of Entry of Sanitary Inspectors. Each sanitary inspector herein provided for is authorized and empowered to enter upon any premises and into any building upon his respective watershed for the purpose of making the inspections required. (L. 1919, ch. 264, Sec. 106, p. 385; O. L. Sec. 8468; O. C. 1930, Sec. 59-1109.)

Sec. 99-908. Duties of Property Owners or Residents on Watershed: Penalty for Failing to Comply. Every person residing on or owning property on the watershed of a lake, pond, or stream from which a drinking supply is obtained shall carry out such reasonable instructions as may be furnished him in the matter hereinbefore set forth directly by the municipal health officer or by the state board of health. Anyone refusing or neglecting to comply with the requirements of this section shall be guilty of a misdemeanor. (L. 1919, ch. 264, Sec. 107, p. 385; O. L. Sec. 8469; O. C. 1930, Sec. 59-1110.)

REGULATING MANUFACTURE AND HANDLING OF ICE

An act to regulate the manufacture, and handling of ice intended for human consumption, to authorize the state board of health to supervise such activities, and providing an effective date for the operation of said act.

Sec. 1. The state board of health shall have general supervision of sanitation in regard to the manufacture of ice by ice factories and it hereby is authorized to enforce the provisions of this act, except as hereinafter provided.

Sec. 2. The term "ice factory" shall mean a plant or place which manufactures ice for sale to the public for human consumption and which is not subject to inspection under the provisions of Chapter 432, Oregon Laws 1945.

The term "health officer" shall mean the state health officer, except that in counties having a population of 10,000 or more, it shall mean the county

health officer, and in cities having an active health officer, it shall mean the city health officer.

Sec. 3. It shall be unlawful for any person, firm, corporation or agency thereof to operate an ice factory without first procuring a permit to do so from the health officer. Such permit shall be posted in a conspicuous place on the premises of the ice factory. All permits shall be issued on the basis of the calendar year and shall terminate on December 31 of each year.

Sec. 4. Application for such permit shall be in writing in the form prescribed by the health officer, subject to the supervision of the state board of health and shall contain the name and address of the applicant and any other information which the health officer shall require to enable him to determine with reasonable certainty whether or not the applicant has such facilities and plans to operate in such manner as to conform to the requirements of this act. Said permit shall contain a condition or clause to the effect that if said applicant shall fail to comply with the provisions of this act, the permit may be revoked. Whenever any applicant for or holder of such a permit shall fail to comply with the provisions of this act, the health officer shall revoke such permit; provided, that no application for such a certificate shall be denied, nor shall any such permit be revoked, by said health officer unless written notice of such intended action and specifying the time and place fixed for hearing thereon by said health officer has been mailed or delivered to the applicant for or holder of such permit, as the case may be, at least 10 days prior to the time in such notice specified, nor unless said health officer has given such applicant or such holder full opportunity to be heard, if present, at the time and place so specified in such notice.

A permit suspended may be reinstated only after an inspection by the health officer has shown that the violation in question has been corrected and that the ice factory can and will be operated in accordance with the provisions of this act.

In case the health officer shall suspend, revoke or refuse any permit, the person thereby affected may, within 10 days thereafter, appeal from such adverse decision to the circuit court of the county in which he resides, assigning the errors alleged to have been committed on the part of the health officer in the suspension, revocation or refusal of such permit. Upon such appeal the reasons of the health officer in sus-

pending, revoking or refusing the permit may be received in evidence. In case of such appeal the hearing shall be as in equity cases. No injunction shall be issued against the health officer pending such hearing, but the court shall advance the cause on the calendar, and hear the same as early as possible. Costs may be taxed in favor of the prevailing party as in civil action. If the court shall decide upon the trial of said appeal that the health officer abused its discretion in suspending or revoking the license or permit, it shall enter a decree accordingly. A copy of said decree shall be transmitted forthwith by the clerk of said court to the health officer, and the health officer shall cancel the suspension or revocation.

Sec. 5. At least once every six months the health officer shall inspect every ice factory located within his jurisdiction and he shall have access to all parts of such factory for said purpose.

Sec. 6. The premises where ice is produced, stored and handled shall be maintained in a clean condition. No ice which has been contaminated in a manner which shall cause it to be unfit for human consumption shall be sold or offered for sale for human consumption. All water used in the manufacture of ice shall be from a source approved by the health officer and be of a safe and sanitary quality.

Sec. 7. No person, except officers, employes or others whose duties so require, shall be permitted to go upon the platform covering the tanks in which ice is frozen in ice factories. All employes whose services are required on platforms covering the tanks shall be required to wear clean shoes or boots. Every ice plant operator shall provide sanitary handwashing and toilet facilities for the use of all employes thereof. The interior of containers for freezing water shall be maintained in a clean condition and shall be handled in such a way that the interior shall be protected from all contamination. All plumbing shall comply with the state plumbing code.

Sec. 8. This act shall take effect on and after January 1, 1948. (L. 1947, ch. 287.)

POLLUTION OF WATER

ARTICLE 1

GENERAL PROVISIONS

Sec. 116-1101. Refuse, Waste or Polluting Matter: Deposit in or Near Streams or Other Waters Prohibited. No person, or the proprietor, operator, agent, superintendent or employe of any railroad company, sawmill or other lumber or manufacturing concern, or any pulpmill, woodsaw, tannery, woolen mill, dye works, chemical works, slaughter-house, or any manufacturing concern, or any steamboat, or any other water craft shall cast or suffer or permit any sawdust, planer shavings, wood pulp, or other lumber waste or any element or chemical extracted therefrom, or other substances, which do or may render the waters of a stream or any other body of water destructive of fish life, or any slashing of trees or brush, or any oil, coal tar, petroleum or extract therefrom, or any dye or chemical to be thrown, cast or discharged, in any manner, or to deposit the same where high water will take or carry same, into the waters of the state of Oregon. It shall be unlawful for any person or persons, company, association or corporation, to put or deposit in any of the rivers, streams, lakes or waters of Oregon, or any artificial canal or ditch in which the waters of said rivers, streams, lakes or waters run, any dead animal carcass, or part thereof, manure, sewage, putrid, decaying or deleterious substance, refuse, waste or polluting matter, or any matter which either by itself or in connection with any other substance which injures fish or will corrupt or impair the quality of the waters of said rivers, streams or lakes for domestic or municipal purposes; or to place any such substance in such position that it shall escape or be carried into said waters by the action of the elements or otherwise. (L. 1921, ch. 153, Sec. 70, p. 267; O. C. 1930, Sec. 39-603; L. 1931, ch. 370, Sec. 51, p. 721.)

Sec. 116-1102. Polluting Water Used for Domestic Purposes or Accessible to Stock: Penalty. If any person or persons shall put any dead animal's carcass, or part thereof, or any excrement, putrid, nauseous, decaying, deleterious, or offensive substance, in any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes, or to which any cattle, horses, or other

kind of stock have access, every person so offending shall, on conviction thereof be fined in any sum not less than \$3 nor more than \$50. (L. 1889, Sec. 1, p. 89; L. 1891, p. 98; B. & C. Sec. 2131; L. O. L. Sec. 2240; O. L. Sec. 2240; O. C. 1930, Sec. 14-909.)

Sec. 116-1103. Polluting Water Used for Domestic Purposes or Accessible to Stock: Leaving Matter Near House or Highway, or Without Proper Burial: Penalty. Any person who shall put any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or who in any other manner befouls, pollutes or impairs the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water which is or may be used for domestic purposes or to which cattle, horses, or other kind of domestic stock have access, or shall put any such dead animal carcass, or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance within one-fourth mile of any dwelling house or public highway and leave the same without proper burial, or, being in the possession or control of any land, shall knowingly permit or suffer any such dead animal carcass, or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance to remain without proper burial upon such premises, within one-fourth mile of any dwelling house or public highway whereby the same becomes offensive to the occupants of such dwelling or the traveling public, he shall be deemed guilty of a misdemeanor. (Am. L. 1945, ch. 276, Sec. 1.)

Precluding Water Supplies for Human Consumption From Being Contaminated by Other Water Supplies and Providing a Penalty for Violation Thereof.

Section 1. It shall be unlawful for any person, firm, corporation, municipality, water district, city, town, or agency thereof to install or maintain any physical connection between the distribution system of a public water supply which is or may be intended for human consumption and that of any other water supply unless such other water supply is of safe bacteriological quality.

Section 2. If upon field investigation, the state board of health shall find that any public water

supply which is or may be intended for human consumption has been interconnected with an unsafe water supply in violation of this act, the state board of health shall so notify the person, firm, corporation, municipality, water district, city, town, or agency thereof responsible for the installation or maintenance of such inter-connection. If it is deemed necessary in the interest of the public to continue the inter-connection, the state board of health shall outline the manner in which such inter-connection shall be maintained to protect the public health, and such person, firm, corporation, municipality, water district, city, town, or agency thereof shall comply with the recommendations of the state board of health.

Section 3. The state board of health hereby is authorized to make such investigation as shall be necessary to carry out the provisions of the act. It shall be unlawful for anyone to interfere with or hinder the state health officer or his authorized deputies in the investigations authorized by this act.

Section 4. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment, in the discretion of the court. Justice courts are hereby given concurrent jurisdiction with circuit courts of all offenses committed under this act. (L. 1947, ch. 474.)

Sec. 116-1104. Leaving Matter Within Watershed of Municipality of Adjoining State: Punishment. Any person who shall place or cause to be placed within any watershed from which any city or municipal corporation of any adjoining state obtains its water supply, any substance which either by itself or in connection with other matter will corrupt, pollute, or impair the quality of said water supply, or the owner of any dead animal who shall knowingly leave or cause to be left the carcass of any portion thereof within any such watershed in such condition as to in any way corrupt or pollute such water supply, shall be deemed guilty of misdemeanor and upon conviction shall be punished by fine in any sum not exceeding \$500. (L. 1909, ch. 182, Sec. 2, p. 256; L. O. L. Sec. 2241; O. L. Sec. 2241; O. C. 1930, Sec. 14-910.)

Sec. 116-1105. Sewage or Waste Water: Discharge Above Intake of Water Supply Prohibited: Purification: Injunction to Restrain Discharge. No person, firm, corporation or municipality shall flow or discharge sewage or waste water above the intake into any drain, brook, creek or river from which a public drinking water supply is taken, unless the same shall have been passed through some well known system of sewage purification approved by the state board of health; and the continued flow and discharge of such sewage may be enjoined upon application of any person. (L. 1919, ch. 264, Sec. 108, p. 385; O. L. Sec. 8470; O. C. 1930, Sec. 59-1111.)

Sec. 116-1106. Schools, Villages and Settlements on Watershed: Sewage Disposal: Approval of Board of Health: Punishment for Noncompliance. All schools, hamlets, villages, towns or industrial settlements which are now located or may be hereafter located on the shed of any public water supply, not provided with a sewage system, shall provide and maintain a reasonable system approved by the state board of health for collecting and disposing of all accumulations of human excrement within their respective jurisdiction or control. Anyone refusing or neglecting to comply with the requirements of this section shall be guilty of a misdemeanor. (L. 1919, ch. 264, Sec. 109, p. 385; O. L. Sec. 8471; O. C. 1930, Sec. 59-1112.)

Sec. 116-1107. Cemeteries on Watersheds: Distance from Source of Water Supply. No burying ground or cemetery shall be established on the watershed of any public water supply nearer than 500 yards of the source of supply. (L. 1919, ch. 264, Sec. 110, p. 422; O. L. Sec. 8472; O. C. 1930, Sec. 23-402, 59-1113.)

Sec. 116-1108. State Board of Health: Inspections of Watersheds: Examination of Waters: Notice to Local Officials of Dangerous Conditions. As a check and guarantee of the faithful performance of the requirements laid down in sections 12-329, 99-901 to 99-908, 116-1105 to 116-1108, 127-1301, and 127-1302 inclusive, the state board of health shall make or have made by its authorized agents such inspections of watersheds and such chemical and bacteriological examinations of the public water supplies of the state as may be deemed necessary to insure their purity. Should such inspection or examination show conditions dangerous to the public health, the secre-

tary of the said state board of health shall notify the mayor, the municipal health officer and the superintendent or manager of the waterworks at fault and demand the immediate correction of said dangerous conditions. (L. 1919, ch. 264, Sec. 111, p. 385; O. L. Sec. 8473; O. C. 1930, Sec. 59-1114.)

Sec. 116-1109. Placing Substances on Watershed of Municipal Supply: Local Municipalities and Those of Adjoining State: Carcass of Animals: Grade of Offense. Any person who shall place or cause to be placed within any watershed, from which any city or municipal corporation of this state or any adjoining state obtains its water supply, any substances which either by itself or in connection with other matter will corrupt, pollute or impair the quality of said water supply, or the owner of any dead animal who shall knowingly leave or cause to be left the carcass or any portion thereof within any such watershed in such condition as to in any way corrupt or pollute such water supply, shall be deemed guilty of a misdemeanor. (L. 1919, ch. 264, Sec. 113, p. 385; O. L. Sec. 8475; O. C. 1930, Sec. 59-1116.)

Sec. 116-1110. Placing Substances in Water, Road, Field, Etc.: Owner Permitting Matter to Remain in Such Place: Punishment: Each Day Additional Offense. Any person or persons who shall place or cause to be placed any part of the carcass of any dead animal, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into any river, creek, pond, road, street, alley, lane, lot, field, meadow or common, or if the owner or owners thereof shall knowingly permit same to remain in any of the aforesaid places to the injury of the health or to the annoyance of any citizen of this state, shall be guilty of a misdemeanor; and every twenty-four hours after conviction therefor during which said person may permit the same to remain, shall be deemed an additional offense against this section. (L. 1919, ch. 264, Sec. 114, p. 385; O. L. Sec. 8476; O. C. 1930, Sec. 59-1117.)

Sec. 116-1111. Wading or Bathing Declared Unlawful: Irrigation Canal, Etc., Supplying Household: Exceptions. It shall be unlawful for any person to wade and/or bathe in any irrigation canal, ditch and/or flume or to wade in any irrigation canal, ditch and/or flume unless the same is done in connection with the operation, maintenance, construction, distribution or measurement of water; provided, how-

ever, that the provisions of this act shall apply only to such irrigation canals, ditches and/or flumes which supply water for household purposes. (L. 1935 (S.S.), ch. 19, Sec. 1, p. 34.)

Sec. 116-1112. Violation of Law: Punishment. That any person violating any of the provisions of section 116-1111 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed the sum of fifty dollars (\$50) or, in lieu of payment of such fine, by imprisonment in the county jail one day for each two dollars (\$2) of such fine. (L. 1935 (S.S.), ch. 19, Sec. 2, p. 34.)

Disposal of Garbage and Refuse, and Providing for Cooperative Operation by Counties and Cities.

Section 1. That the counties of the state of Oregon, acting by and through their respective county courts, be and they hereby are authorized to obtain real and personal property by lease, purchase or otherwise for the purpose of operating and maintaining garbage and refuse dumps and disposal plants, and for such purpose to enter into any contracts which may seem desirable with any incorporated city or incorporated cities in their respective counties covering the cooperative use of such dumps or disposal plants.

Section 2. That for the purpose of carrying into effect the provisions of section 1 hereof, incorporated cities be and they hereby are authorized to enter into contracts with the county in which they are situate for the cooperative maintenance and operation of garbage dumps and disposal plants.

Section 3. That each such garbage dump or disposal plant shall be operated under the jurisdiction of the county court in which it is situated and such county court hereby is authorized to prescribe rules, regulations and conditions under which such dumps or disposal plants may be operated and to permit or prohibit by rule or regulation the dumping of refuse or garbage at said dump or disposal plant. (L. 1947, ch. 395.)

ARTICLE 2

PROTECTION OF MUNICIPAL WATER SUPPLY

Sec. 116-1113. **Protection of Water Supply: (Cities and Towns Given Jurisdiction Over Supply Sources: Special Policemen).** For the purpose of protecting the water furnished to the inhabitants of towns and cities within this state from pollution, the said towns and cities are hereby given jurisdiction over all property acquired, owned, and occupied by the works, reservoirs, systems, springs, branches and pipes, by means of which, and of all the lakes, rivers, springs, streams, creeks or tributaries acquired by said towns and cities constituting the sources of supply from which such cities or towns or the companies or individuals furnishing water to the inhabitants of such cities or towns obtain their supply of water, or store or conduct the same, and over all property acquired for any of the foregoing works or purposes or for the preservation and protection of the purity of the water supply, and over all property acquired and owned by said towns and cities within the areas draining into the lakes, rivers, springs, streams, creeks or tributaries constituting such sources of supply whether the same, or any thereof, be within the corporate limits of such town or city or outside thereof; and authority is hereby conferred upon such towns and cities to prescribe by ordinance what acts shall constitute offenses against the purity of such water supply and the punishment or penalties therefor and to enforce said ordinances; and the mayor or authorities having control of the water system of such town or city is hereby authorized to appoint special policemen, with such compensation as the proper authorities of said town or city may fix, who shall, after taking oath, have the powers of constables under the laws of this state, and who may arrest with or without warrant any person committing, within the territory over which such town or city is given jurisdiction by this act, any offense declared by law of this state, or by any ordinance of such town or city, against the purity of such water supply. Such policeman shall be, and he is hereby, authorized to forthwith take any such person arrested for any such offense or violation aforesaid, before any court having jurisdiction thereof to be proceeded with according to law. Every such special policeman shall, when on duty, wear in plain view a badge or shield bearing the words "Special police" and the name of the town or city for which he shall be appointed as afore-

said. (L. 1919, ch. 183, Sec. 1, p. 264; O. L. Sec. 848⁷ O. C. 1930, Sec. 59-1122.)

Sec. 116-1114. Pollution Prohibited: Removal of Nuisance: Penalty. The establishment or maintenance of any slaughter-pen, stock-feeding yards, hogpens, or the deposit or maintenance of any uncleanly or unwholesome substance, or the conduct of any business or occupation, or the allowing of any condition upon or sufficiently near the sources from which the supply of water for the inhabitants of any such city or town is obtained, or where such water is stored, or the property or means through which the same may be conveyed or conducted so that such water would be polluted or the purity of such water or any part thereof destroyed or endangered, is hereby prohibited and declared to be unlawful, and is hereby declared to be and constitute a nuisance, and as such to be abated as other nuisances are abated under the provisions of the existing laws of the state of Oregon, or under the laws which may be hereafter enacted in relation to the abatement thereof; and that any person or persons who shall do, establish, maintain or create any of the things hereby prohibited for the purpose of or which shall have the effect of polluting any such sources of water supply, or water, or endangering the purity thereof, or shall do any of the things hereby declared to be unlawful, shall be deemed guilty of creating and maintaining a nuisance, and may be prosecuted therefor, and upon conviction thereof may be fined in any sum not exceeding \$500. (L. 1919, ch. 183, Sec. 2, p. 264; O. L. Sec. 8482; O. C. 1930, Sec. 59-1123.)

Sec. 116-1115. Prosecutions for Nuisances: (Duty to Abate Nuisance on Conviction: Warrant for Abatement). If upon the trial of any person or persons for the violation of any of the provisions of this chapter such person or persons, shall be found guilty of creating or maintaining a nuisance as hereby defined, or of violating any of the provisions of this chapter, it shall be the duty of such person or persons to forthwith abate such nuisance, and in the event of their failure so to do within one day after such conviction, unless further time be granted by the court, a warrant shall be issued by the court wherein such conviction was obtained, directed to the sheriff of the county in which such nuisance exists, and the sheriff shall forthwith proceed to abate the said nuisance and the cost thereof shall

be taxed against the party so convicted as a part of the costs of such case. (L. 1919, ch. 183, Sec. 3, p. 264; O. L. Sec. 8483; O. C. 1930, Sec. 59-1124.)

Sec. 116-1116. Duty of Health Officers. It is hereby made the duty of the city health officer, city physician, board of public health, mayor of the city or such other officer as may have the sanitary condition of such city or town in charge, or charge of the water system or supply of any such city or town, to see that the provisions of this chapter are enforced and upon complaint being made to any such officer to immediately investigate the said complaint and if the same shall appear to be well founded it shall be, and is hereby declared to be the duty of such officer to proceed and file a complaint against the person or persons violating any of the provisions of this chapter and cause the arrest and prosecution of such person or persons. (L. 1919, ch. 183, Sec. 4, p. 264; O. L. Sec. 8484; O. C. 1930, Sec. 59-1125.)

Sec. 116-1117. Injunction Proceedings. Any city supplied with water from any source of supply as hereinbefore mentioned, or any corporation owning water works for the purpose of supplying any city or the inhabitants thereof with water in the event that any of the provisions of this chapter are being violated by any person, may, by civil action in the circuit court of the proper county, have the maintenance of the nuisance which pollutes or tends to pollute the said water, as provided for by section 116-1114, enjoined, and such injunction may be perpetual. (L. 1919, ch. 183, Sec. 5, p. 264; O. L. Sec. 8485; O. C. 1930, Sec. 59-1126.)

ARTICLE 3

SANITARY AUTHORITY

Sec. 116-1118. Preservation of Purity of Waters, and Encouraging Prevention of Pollution, Declared to Be Public Policy. It hereby is declared to be the public policy of the state of Oregon to preserve the natural purity of the water of all rivers, streams, lakes, watersheds, and the coastal areas of the state in the interest of the public welfare, for the protection and conservation of the public health, and recreational enjoyment of the people, and for the pro-

tection and conservation of fish, aquatic life, and migratory birds, and to foster and encourage the cooperation of the people, of industries, of incorporated cities, and of towns and counties, in preventing and controlling the pollution of said waters. (L. 1939, ch. 3, Sec. 1, p. 9.)

Sec. 116-1119. Sewage or Other Waste: Discharge Into Waters Declared to Be Against Public Policy. The discharge into said waters, hereinafter set forth, of any sewage and/or other waste which are or may become detrimental or injurious to human or aquatic life, or the recreational enjoyment of the people, by any person, copartnership, association, or corporation, whether public, municipal, or private, or by any state-owned institution or industry, hereby is declared to be not a reasonable or natural use of such waters, and to be against the public policy of the state of Oregon, as set forth in section 116-1118. (L. 1939, ch. 3, Sec. 2, p. 9.)

Sec. 116-1120. Sanitary Authority: Creation: Membership: Duties and Authority. There hereby is created within the state board of health a division to be known as the Sanitary Authority of the state of Oregon, which shall consist of six members, as hereinafter designated and appointed, and shall be charged with duties and given authority, as hereinafter set forth, supplemental to the duties and authority now conferred by statute on the state board of health. (L. 1939 ch. 3, Sec. 3, p. 10.)

Sec. 116-1121. Members: Appointment: Term of Office: Filling of Vacancies: Compensation and Expenses: Sanitary Engineer: Secretary. The sanitary authority of the state of Oregon shall consist of the state health officer, state engineer, chairman of the state fish commission, and three members to be appointed by the governor, not more than one of whom shall be from any congressional district of Oregon. Members of the sanitary authority shall be appointed by the governor on the basis of their capacity to serve the general welfare of the people of the state of Oregon and they shall serve a term of four years, but of the three members first appointed by the governor, the member from the first congressional district shall be appointed for a term of four years; from the second congressional district for a term of three years, and from the third congressional district for a term of two years; thereafter the appointed

members shall be appointed for a term of four years. The governor shall fill vacancies occurring in said authority from any cause.

(a) The three members appointed by the governor to serve on the sanitary authority shall each be paid six dollars (\$6) per day for each day of actual service in performance of their duties, and all members of the board shall be reimbursed for traveling and other necessary expenses incurred in the performance of their official duties.

(b) There shall be appointed and paid by the state board of health a state sanitary engineer, who shall be a graduate of a recognized institution of engineering, and shall possess a minimum of five years of experience as a practicing sanitary engineer, and also shall be secretary of the sanitary authority. (Am. L. 1943, ch. 25, Sec. 1.)

Sec. 116-1122. Powers and Duties of Sanitary Authority: Preservation of Purity of Waters, Formulation of Rules, Conducting of Investigations, Receiving of Complaints, Etc., Conducting of Hearings, Enforcement of Laws. The general powers and duties of said sanitary authority shall be:

(a) To encourage voluntary cooperation by the people, municipalities, counties, industries, agriculture, and other pursuits, in restoring and preserving the greatest possible purity of waters of the state of Oregon.

(b) To formulate rules and regulations pertaining to the control of pollution of waters of the state of Oregon, and to establish standards of purity of the various waters of the state of Oregon.

(c) To conduct independently and in cooperation with others, studies, investigations, research, and to prepare, or in cooperation with others prepare a program or programs, any or all of which shall pertain to the purity of waters of the state of Oregon, or to the treatment and disposal of sewage and/or other wastes which may be the causes of pollution, which studies, investigations, research, and program or programs shall be intended to result in the reduction of pollution of the waters of the state of Oregon, according to the conditions and particular circumstances existing in the various communities throughout the state of Oregon.

(d) To receive complaints, petitions or remonstrances from individual citizens, groups of citizens,

organizations, associations, or municipalities, relative to any condition or situation that is represented to involve or contain elements of pollution of the waters of the state of Oregon and to investigate and take action, as herein provided, as soon as possible upon receipt of such complaints, petitions, or remonstrances.

(e) To conduct public hearings upon due notice, summon witnesses, take testimony, and examine the facts relating to any municipality, person, association, copartnership, or corporation whose sewage or waste disposal may be the subject of any report made by the sanitary engineer of the state board of health, or otherwise brought to the attention of the sanitary authority; to publish its findings and recommendations as they may be developed relative to public policies and procedure necessary for the correction of conditions or violations of any of the laws of Oregon relating to pollution, and to take appropriate action for the enforcement of the rules, regulations, or orders of the sanitary authority, promulgated as the result of such hearings.

(f) To enforce compliance with the laws of the state of Oregon relating to pollution of the waters of the state. (L. 1939, ch. 3, Sec. 5, p. 10.)

Sec. 116-1123. Cooperation With and Receipt of Monies from Governmental Agencies or Other Sources: Use of Funds for Control of Sewage and Industrial Water Pollution. The sanitary authority of the state of Oregon hereby is authorized to cooperate with and receive monies from the federal government, any department of the state of Oregon, including the state of Oregon and its agencies, and any industrial or other source, and to use and disburse the said funds for the study and control of municipal sewage or industrial waste treatment or water pollution. (L. 1939, ch. 3, Sec. 6, p. 11.)

Sec. 116-1124. Sewer Systems, Waste Reduction Plants Etc.: Construction or Modification: Plans to Be Approved by Sanitary Authority. All plans and specifications for the construction of new sewer systems, new sewage treatment plants, new waste treatment or reduction plants, either in connection with existing municipal sewers or existing industrial waste sewers or existing treatment or reduction plants established at the time this act is approved, or in connection with such sewers or plants which may be built after the passage of this act, or major

modifications of or additions to existing systems or sewage or waste treatment or reduction plants, shall be submitted to and be approved by the sanitary authority, before construction thereof may begin. (L. 1939, ch. 3, Sec. 7, p. 11.)

Sec. 116-1125. Pollution Control: Powers of Sanitary Authority: Representation of State: Proceedings, Plans, Interstate Compacts, Etc. The sanitary authority of the state of Oregon hereby is authorized to represent the state of Oregon in any proceedings and all matters pertaining to plans, procedure and/or interstate compacts in relation to control of pollution of the waters of Oregon and those adjacent thereto, and to represent the state of Oregon in determination of priority of pollution control projects, as may henceforth be necessary under terms of statutes enacted by the Congress of the United States. (L. 1939, ch. 3, Sec. 8, p. 12.)

Sec. 116-1126. Abatement Proceedings: Officials Authorized to Institute Suit in Name of State. Proceedings to abate alleged public nuisances created by pollution of waters of the state of Oregon, may be instituted at law, or in equity, in the name of the state of Oregon, upon relation of the sanitary authority, or upon relation of the attorney general, or upon relation of any district attorney of any county, or upon the relation of the city attorney of any municipality affected. (L. 1939, ch. 3, Sec. 9, p. 12.)

Sec. 116-1127. Orders of Sanitary Authority: Interference With Sewage Disposal of Industrial Processes: Extension of Time: Enforcement of Order: Intervention in Abatement Suits. If it shall appear that, as a result of any order of the sanitary authority, based upon findings of fact in any public hearing, research, or investigation conducted by said authority, the immediate enforcement of such orders would substantially interfere with the sewage disposal system of any municipality, or the normal industrial processes of any person, copartnership, association, or corporation, to the extent of the stoppage of such sewage disposal or industrial operation to the damage thereof, then in that event the sanitary authority, upon written stipulation with the parties at interest by order or otherwise, shall grant sufficient time, in its discretion, to permit the municipality, industry or other offender, to comply with the order of the sanitary authority. If, however, the order of the authority is not fully carried out within

the time specified in the stipulation or order, and if the authority shall find that the other party at interest is not proceeding in good faith to carry out the terms of the stipulation or order, the authority shall proceed to enforce the law and its order by proceedings to abate a nuisance. In the event, however, that any person or persons, copartnership, association, or corporation, public or private, shall proceed under general laws for the abatement of an alleged nuisance, relating to the pollution of the waters of the state of Oregon which are by law under the jurisdiction of the state of Oregon, and the enforcement of any restraining order or injunction obtained in such manner shall appear substantially to interfere with the sewage disposal system of any municipality, or the normal industrial processes of any person, copartnership, association or corporation, to the extent of the possible stoppage of such sewage disposal or industrial operation, thereby causing a menace to the public health, or the damage of such industrial operation, then the sanitary authority shall have the right to intervene in such suits or action, in the public interest, for the purpose of presenting the facts first obtained by the authority, and upon such facts urge that the mandate of any injunctive relief that may be granted by the court shall not be made permanent until such defendant has been given sufficient time, in the court's discretion, in which to remedy and correct the conditions set forth in the complaint. (L. 1939, ch. 3, Sec. 10, p. 12.)

Sec. 116-1128. Appeal by Aggrieved Persons: Procedure: Notice: Hearing: Decree: Costs: Precedence of Suit. Any person, copartnership, association, or corporation whether public, municipal, or private, who may deem himself or itself aggrieved by any order of the sanitary authority, other than an order in which a stipulation was made, shall have the right to appeal from such order to the circuit court of the county in which the property, or any part thereof, affected thereby, is situated. The appeal shall be taken and perfected in the following manner, and not otherwise:

(a) The party desiring to appeal from the order of such sanitary authority may cause a notice, to be signed by himself, itself or attorney, to be filed with the secretary of said sanitary authority within thirty (30) days, from the time said order may be promulgated by said sanitary authority.

(b) Within ten (10) days of the giving of such notice, or upon such further time as the court may

allow, the said party to be known as the appellant shall file with the clerk of the circuit court for the proper county a transcript of the order appealed from, and so much of the record as made before said sanitary authority as may be necessary intelligently to present the questions to be decided by the circuit court, together with the notice of appeal and the record of the filing thereof; thereafter the said circuit court shall have jurisdiction of the matter. The appeal shall be heard and determined by the circuit court in a summary manner, and shall be determined as a suit in equity. Either the appellant or the sanitary authority shall be entitled upon a hearing of said appeal to present any evidence which would be competent to be considered by a court of equity in an equity proceeding, shall be entitled to the compulsory attendance of witnesses, and to the production of books and papers. If, upon the hearing the court finds, in giving consideration to the welfare of the state at large, that the order appealed from is justified, then the court shall enter a decree in affirmance of said order, which said decree shall continue in full force and effect from and after the entrance of said decree; but, if the court, upon such hearing, shall find in giving consideration to the welfare of the state at large, that the order appealed from, or any part thereof, is not justified, then the court shall enter an appropriate decree dismissing or modifying the order appealed from. The provisions of law governing cost and disbursements on appeal shall be applicable thereto. The taking of any appeal shall suspend the order until decree may have finally been entered upon such appeal. Suits or proceedings, authorized by this section, shall have precedence over any civil cause of a different nature pending before such court excepting only appeals from orders of the public utility commissioner, and the state industrial accident commission. (L. 1939, ch. 3, Sec. 11, p. 13.)

Sec. 116-1129. Control of Statute Over Inconsistent Laws. In so far as the provisions of this act are inconsistent with, or in conflict with, the provisions of any other law, the provisions of this act shall be controlling. (L. 1939, ch. 3, Sec. 12, p. 14.)

ARTICLE 4

PROVISIONS AFFECTING PARTICULAR LAKES OR STREAMS

Sec. 116-1130. Benton and Yamhill Counties: Sanitary Water Areas. The area lying within one mile on each side of the thread of any stream or water-course in Benton and Yamhill counties, Oregon, which is the source of supply of domestic water for any municipal corporation in this state for a distance of four miles above the headgate, diversion dam or other means of diverting such water from the stream to the instrumentality where such water is conducted from such stream to the consumers thereof, is hereby created a restricted and protected district to be known as a sanitary water area. (L. 1925, ch. 299, Sec. 1, p. 567; O. C. 1930, Sec. 59-1127.)

Sec. 116-1131. Usage of Area Regulated: Permits for Camps, Etc. It shall be unlawful within the boundaries of said sanitary water area for any person to permit any domestic livestock of any kind to run at large, except such livestock (as) at the time is in direct charge and under the control of a herder; provided, this act shall not prohibit any person from permitting his own livesock to run without a herder upon his own land situated within such area. It shall be unlawful for any person to dump, deposit or place any sewage or refuse or matter or thing of any kind which is subject to decay within any such sanitary area. It shall be unlawful for any person to build any campfire, bonfire or burn any slashings or brush or start any fire of any kind within any such sanitary area, except that a person owning land within such area may build fires in stoves, fireplaces and other similiar devices for domestic heating and cooking, and may, with the permit of the state board of health, build brush fires and burn slashings upon his own land situated within any such area. It shall be unlawful for any person to camp or maintain any camp or campground or any dance hall or other place of public entertainment within any such sanitary water area; provided, however, that the owner of any land within any such sanitary water area may keep or maintain a camp or campground or dance hall or other place of public entertainment upon his own land within such area, after he shall procure a permit therefor from the state board of health and shall at all times destroy by burning or by some other efficient means, all

sewage and refuse matter and things of every character which are subject to decay and shall permit no act to be done upon his said land which will pollute the water of said stream within a distance of two miles above the intake or point of diversion to said municipal water supply. Any permit granted by the state board of health under the provisions of this act shall be conditioned upon the permittee fully complying with all the provisions of this law and any such permit may be revoked by the state board of health for a violation of any of the provisions of this law. Before any permit is revoked formal written charges shall be filed with the state board of health and notice of a hearing thereon shall be given the permittee in writing ten days before such hearing, the same to be served as a summons is served in a cause pending in the circuit court. Said hearing shall be public and all interested parties shall be entitled to the benefit of witnesses and to be represented by counsel. (L. 1925, ch. 299, Sec. 2, p. 567; O. C. 1930, Sec. 59-1128.)

Sec. 116-1132. Punishment of Violator. Any person violating any provision of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10, nor more than \$1,000, or by imprisonment in the county jail not less than five days, nor more than one year, or by both such fine and imprisonment, and shall further be liable for any damages resulting from the doing of any act herein prohibited. (L. 1925, ch. 299, Sec. 3, p. 567; O. C. 1930, Sec. 59-1129.)

Sec. 116-1133. Dumping Untreated Sewage in Streams in Yamhill County in or Near Cities. It shall be unlawful for any person, firm, corporation or municipal corporation to dump, deliver or permit to be dumped or delivered untreated or raw sewage, offal, refuse or debris in any nonnavigable stream of Yamhill County having a flow of less than three and three-tenths cubic feet of water per second at any time of the year, within the corporate limits of any incorporated city or town or within one mile of the boundaries thereof without treating or disposing of such sewage, offal, refuse or debris in a manner prescribed by the rules and regulations of the state board of health. (L. 1925, ch. 225, Sec. 1, p. 409; O. C. 1930, Sec. 14-914.)

Sec. 116-1134. Civil and Criminal Liability of Violator. Any person, firm, corporation or municipal

corporation violating the provisions of this act shall be liable for all damage sustained or suffered by any individual, the same to be recovered in an action therefor, and in addition thereto any person, firm or corporation and the responsible officers of any municipal corporation violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$1,000. or by imprisonment in the county jail not less than five days nor more than one year, or by both such fine and imprisonment. (L. 1925, ch. 225, Sec. 2, p. 409; O. C. 1930, Sec. 14-915.)

Sec. 116-1135. Clear Lake: Pollution Prohibited: Watershed Boundary Lines. Any person or persons, who shall put any sewage, drainage, refuse or polluting matter, or any dead animal carcass, or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance which, either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of Clear Lake in township 22 south, ranges 12 and 13 west of the Willamette meridian in Douglas County, Oregon, and/or upon any of the watershed supplying said Clear Lake within the following described boundaries, to wit:

Beginning at the corner of sections 30 and 31, township 22 south, range 12 west, and sections 25 and 36, township 22 south, range 13 west of the Willamette meridian, in Douglas County, Oregon, and running thence as follows: West one-half mile, north two miles, east one-fourth mile, north one-fourth mile, east one-fourth mile to the coast meridian, thence east one and one-fourth miles, south one mile, west one-half mile, south one-half mile, west one-fourth mile, south three-fourths mile to the quarter section corner between sections 30 and 31; thence west one-half mile to the place of beginning and containing 1,920 acres, more or less; or allow any such substance to escape into, or place any such substance in such position that it or the drainage therefrom shall escape or be carried into said waters, or in any other manner not herein named shall befoul, pollute, or impair the qualities of such waters for domestic or municipal purposes, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as hereinafter provided. (L. 1927, ch. 256, Sec. 1, p. 324; O. C. 1930, Sec. 14-911.)

Sec. 116-1136. Fishing or Camping: Lands of Reedsport: Campground Polluting Waters. No person or persons shall catch or attempt to catch any fish in the waters of said Clear Lake, or camp on any lands adjacent to Clear Lake, which belong to the city of Reedsport, in the state of Oregon, or establish within the watershed above described any public campground or camping place and conduct same in any manner which will pollute, befoul or impair the quality of the water of said Clear Lake for domestic or municipal purposes. (L. 1927, ch. 256, Sec. 2, p. 324; O. C. 1930, Sec. 14-912.)

Sec. 116-1137. Violations of Law: Punishment. Any person violating any of the provisions of this act shall, upon conviction thereof, be fined in a sum not less than \$10 nor more than \$100, or by imprisonment in the county jail not less than five days nor more than fifty days, or shall be punished by both such fine and imprisonment at the descretion of the court. (L. 1927 ch. 256, Sec. 3, p. 324; O. C. 1930, Sec. 14-913.)

Sec. 116-1138. Deschutes River or Tributaries. It shall be unlawful for any person or persons, company, association or corporation to put or deposit in the Deschutes river in the state of Oregon, or any tributary thereof, or artificial canal or ditch in which the waters of said Deschutes river runs, any sewage, refuse, waste or polluting water, or any dead animal carcass or part thereof, or any matter which either by itself, or in connection with any other substance, will corrupt or impair the quality of the water of said river for domestic or municipal purposes, or to place any such substance in such position that it shall escape or be carried into said waters by the action of the elements or otherwise. (L. 1919, ch. 264, Sec. 116, p. 385; O. L. Sec. 8478; O. C. 1930, Sec. 59-1119.)

Sec. 116-1138a. McKenzie River or Tributaries: Misdemeanor: Punishment. Any person or persons, who shall put any sewage, drainage, refuse or polluting matter, any dead animal carcass or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance, which either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of the McKenzie river, or tributaries thereof, in Lane county, Oregon, or allow

any such substance to escape into, or place any such substance in such position that it shall escape or be carried into said waters, or in any other manner not herein named, shall befoul, pollute or impair the qualities of such waters for domestic or municipal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined the sum of not to exceed one hundred dollars (\$100). (L. 1941, ch. 465, Sec. 1.)

Sec. 116-1139. North Umpqua River or Tributaries. Any person or persons, who shall put any sewage, drainage, refuse, or polluting matter or any dead animal carcass, or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance, which either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of the North Umpqua river, or tributaries thereof, above the Winchester power dam, in Douglas county, Oregon, said dam being located between the points, to wit: where said river is crossed by the Oregon and California railroad and the county bridge spanning said stream one thousand five hundred feet more or less east of said railroad crossing, or allow any such substance to escape into, or place any such substance in such position that it shall escape or be carried into said waters, or in any other manner not herein named, shall befoul, pollute, or impair the qualities of such waters for domestic or municipal purposes, shall be deemed guilty of a misdemeanor. (L. 1911, ch. 8, Sec. 1; L. 1919, ch. 264, Sec. 117, p. 385; O. L. Sec. 8479; O. C. 1930, Sec. 59-1120.)

Sec. 116-1140. Oswego Lake and Affluents: Pollution Prohibited. It shall be unlawful for any person or persons, association or corporation to put or deposit in Oswego lake, Clackamas county, in the state of Oregon, or in any drain or brook flowing into said lake, any sewage, refuse, waste or any other substance which by itself, or in connection with any other matter, will corrupt or impair the quality of water in said lake for domestic or recreational purposes or to place any such substances in such a position that it will escape or be carried into said waters by the action of the elements or otherwise. (L. 1933, ch. 153, Sec. 1, p. 179; O. C. 1935 Supp., Sec. 59-1130.)

Prohibiting trespass and grazing upon the Bull Run National Forest as set aside as a municipal water supply by act of the United States Congress.

Section 1. If any person shall, without lawful business thereon, go or trespass upon any lands or premises not his own within the limits of the Bull Run national forest, which is a part of the Mt. Hood national forest and which has been heretofore set aside as a reserve for a municipal water supply by act of the United States Congress, and shall fail, neglect or refuse to depart therefrom immediately and remain away until permitted to return upon the verbal or printed or written notice of the owner or person in the lawful control of said lands or premises, he shall be deemed a trespasser and shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not exceeding two hundred fifty dollars (\$250) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Section 2. If any person shall willfully permit or allow stock in his possession to graze upon the Bull Run national forest, which is a part of the Mt. Hood national forest and which has been heretofore set aside as a reserve for a municipal water supply by act of the United States Congress, after notice, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred fifty dollars (\$150) or by imprisonment for not more than three months, or by both such fine and imprisonment.

Section 3. Printed or written notices having attached thereto by authority, the name of the owner or person in the lawful occupation of said lands or premises, and requiring all persons to forbear trespassing on said lands or premises and to depart therefrom, posted in three conspicuous places on said lands or premises, shall be held and deemed to be sufficient prima facie evidence of notice as mentioned in section 1 of this act. Justices courts shall have jurisdiction over all offenses defined in this act. (L. 1947, ch. 402.)

Sec. 116-1141. Sewage to Be Purified: Injunction. No person, company, association or corporation residing on or owning property on the watershed of said lake shall flow or discharge sewage or waste water thereon unless the same shall have been passed through a system of sewage purification ap-

proved by the state board of health; and the continued flow and discharge of said sewage may be enjoined by any judge of the circuit court, upon application of any person. (L. 1933, ch. 153, Sec. 2, p. 180; O. C. 1935 Supp., Sec. 59-1131.)

Sec. 116-1142. Officers Charged With Enforcement of Act. All peace officers and health officers of Clackamas county hereby are charged with the enforcement of this act. (L. 1933, ch. 153, Sec. 3, p. 180; O. C. 1935 Supp., Sec. 59-1132.)

Sec. 116-1143. Violations of Law: Punishment. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100. (L. 1933, ch. 153, Sec. 4, p. 180; O. C. 1935 Supp., Sec. 59-1133.)

Sec. 116-1144. Pollution of Irrigation Canal With Source in Deschutes River Prohibited: Maintenance of Slaughter Pens, Etc., Declared Nuisance: Abatement: Conviction: Fine. The establishment or maintenance of any slaughter pens, stock feeding yards, hogpens, corrals or turkey yards, or the deposit or maintenance of any uncleanly or unwholesome substance, or the conducting of any business, or the allowance or maintenance of any condition, below the point of diversion upon or sufficiently near any irrigation canal or ditch diverting water from or which has as its source of supply the waters of the Deschutes river and its tributaries south of Crooked river, so that the water of such canal or ditch is polluted, or is likely to become polluted, or the purity thereof endangered, thereby, hereby is prohibited and declared to be unlawful, and hereby is declared to be a nuisance and may be abated as other nuisances are abated under the provision of existing laws of the state of Oregon, or under the laws which may be hereafter enacted in relation to the abatement thereof; and any person or persons who shall do, establish, maintain or create any of the things hereby prohibited for the purpose of or which shall have the effect of polluting or endangering the purity of water flowing in any irrigation canal or ditch which has as its source of supply the waters of the Deschutes river and its tributaries south of Crooked river, or shall do any of the things hereby declared to be unlawful, shall be deemed guilty of creating and maintaining a nuisance and upon conviction thereof, shall be fined not less than fifty

dollars (\$50) nor more than five hundred dollars (\$500). (L. 1945, ch. 223, Sec. 1, effective March 14, 1945.)

Sec. 116-1145. Duty of Irrigation District or Water Company Employes to Report Violation. It shall be the duty of every employe of any irrigation district or water company diverting water from the Deschutes river and its tributaries south of Crooked river to report any condition which shall come to their attention and from which there appears to be a violation of the provisions of section 1 of this act (Sec. 116-1144) to the secretary of said district or water company, and said secretary shall forthwith report the same in writing to the health officer of the county wherein such condition exists. (L. 1945, ch. 223, Sec. 2, effective March 14, 1945.)

Sec. 116-1146. Duty of County Health Officer: Report to Irrigation District Board: Duty of Board to Institute Suit. It hereby is made the duty of every county health officer to whom such a report is made to investigate immediately such condition and report his findings, together with his opinion as to whether the provisions of this act are being violated, to the board of directors of the irrigation district reporting such condition. If it appears from the findings and opinion of such officer that the provisions of this act are being violated, it shall thereupon become the duty of the board of directors of such irrigation district or water company to institute a suit in the circuit court of the county wherein such condition exists to abate the nuisance created thereby. (L. 1945, ch. 223, Sec. 3, effective March 14, 1945.)

Sec. 116-1147. Duty of Health Officer to File Complaint Against Violators. If, in the opinion of the county health officer after making such an investigation, it appears that the provisions of this act are being violated, it shall be his duty to report immediately his findings, and opinion to the district attorney of the county wherein such condition exists, and to proceed and file a complaint against the person or persons committing such violation and cause their arrest and prosecution. (L. 1945, ch. 223, Sec. 4, effective March 14, 1945.)

VITAL STATISTICS

Sec. 1. Definitions. 1. As used in this act, "vital statistics" include the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, stillbirths, marital status and data incidental thereto.

2. "Live birth" means a birth, in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the mother, even if the cord is uncut, and the placenta still attached. The words "evidence of life" include heart action, breathing or coordinated movement of voluntary muscle.

3. "Stillbirth" means a birth after at least 20 weeks of gestation, in which the child shows no evidence of life after complete birth.

4. "Dead body" means lifeless human body, or such severed parts of the human body, or the bones thereof, from that state of which it reasonably may be concluded that death had recently occurred, and where the circumstances under which such dead body was found indicate that death has not been recorded.

5. "Person in charge of interment" means any person who places, or causes to be placed, a deceased, stillborn child, or dead body, or, after cremation the ashes thereof, in the earth, a grave, tomb, vault, urn or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

6. "Physician" means a person, authorized under the laws of this state to practice medicine, as defined in section 54-101, O.C.L.A. (L. 1941, ch. 130, Secs. 1, 44, repealing original and adding new section.)

Sec. 1A. Certificates for Unrecorded Births: Filing Petition: Contents: Fee: Forms Furnished: Previous Decrees Validated. Any person who is a resident of or who was born in the state of Oregon, and whose birth is not of record with the state registrar or of

public record in any state of the United States, may file a verified petition with the clerk of the circuit court of any county of this state setting forth as nearly as known to the petitioner the time and place of such petitioners birth and the name and residence and birthplace of his or her father, and the name and residence and birthplace and maiden name of his or her mother, and stating that no public record of such birth exists; a like petition in regard to the birth of any person who is deceased or who is unable because of age or other disability to file a petition in his own behalf and who was or is at the time of death or disability a resident of the state of Oregon may be filed in like manner and with like effect by any person having an interest in the matter. A filing fee of one dollar (\$1) shall be paid to the clerk of the court at the time of the filing of such petition. Forms of petitions prepared by the secretary of state shall be furnished the petitioner by the clerk of the court upon request without charge. All decrees heretofore entered in the case of deceased persons, or persons under disability because of age or otherwise, hereby are validated. (Am. L. 1945, ch. 101, Sec. 1.)

Sec. 1B. Service on District Attorney. Prior to filing such petition the petitioner shall serve upon the district attorney of the county wherein such petition is filed a copy of such petition and the district attorney shall accept service upon the original thereof. (L. 1943, ch. 118, Sec. 2, effective February 20, 1943.)

Sec. 1C. Petitioner May Present Evidence. At any time after five days after such petition is served and filed the petitioner may appear in person or by attorney before the court in which such petition is filed and present to the court such evidence as is available in support of the statements of such petition. The district attorney may appear at such hearing and examine witnesses produced and may submit proof in support of or in objection to such petition. (L. 1943, ch. 118, Sec. 3, effective February 20, 1943.)

Sec. 1D. Court's Findings: Order to Register Birth: Change of Name. Upon the hearing of such petition the court, if satisfied that the facts therein stated are supported by substantial evidence, shall make findings with respect to the time and place of the birth of such petitioner and the parents of

such petitioner, and shall order that such birth be registered with the state registrar. Any change in the name of any such petitioner between the time of birth and the time of filing of such petition shall not be cause for refusing to make such findings and order, but any change of name shall be noted in the findings. (L. 1943, ch. 118, Sec. 4, effective February 20, 1943.)

Sec. 1E. Order in Duplicate: Disposition: Duty of State Registrar: Certified Copy as Evidence: Fee for Copy. The order for the registration of such birth shall be properly signed in duplicate by the judge, and one copy thereof shall be entered in the journal of the court, and the other copy thereof, bearing the seal of the court, shall be transmitted by the clerk to the state registrar, who shall register the same in the records of the state board of health. A certified copy of such record, when issued either by the clerk of the court or the state registrar, shall be prima facie evidence in all courts and places of the facts stated therein. Certified copies shall be furnished by the clerk of the court or the state registrar at a fee of fifty (50) cents each. (L. 1943, ch. 118, Sec. 5, effective February 20, 1943.)

Sec. 2. Authority and Duties of the Oregon State Board of Health.

1. The Oregon State board of health herein referred to as the board shall: Establish a bureau of vital statistics with suitable offices which shall be equipped properly for the safety and preservation of all official records made and received under this act or under the regulations of the board.

2. Install an adequate system of vital statistics throughout the state.

3. Make and amend, after due notice and hearing, regulations necessary to the installation and efficient performance of an adequate system of vital statistics, give instructions and prescribe forms for collecting, transcribing, compiling and preserving vital statistics.

4. Enforce this act and the regulations made pursuant thereto. (L. 1941, ch. 130, Secs. 2, 44, repealing original and adding new section.)

Sec. 3. Publications and Regulations. The regulations of the board shall be published and distributed

according to chapter 5, title 89, O.C.L.A., and shall take effect 30 days after their publication. (L. 1941, ch. 130, Secs. 3, 44, repealing original and adding new section.)

Sec. 4. Registration Districts. The board shall divide the state from time to time into vital statistical registration districts, which shall conform to some currently existing political subdivision, or the balance of a political subdivision excluding any political subdivision which may have been made a separate district, or combinations thereof. (L. 1941, ch. 130, Secs. 4, 44, repealing original and adding new section.)

Sec. 5. Appointment of State Registrar of Vital Statistics: Qualifications: Successor: Compensation: (Assistants). 1. The board shall cause to be appointed immediately upon the passage of this act a state registrar of vital statistics, herein referred to as state registrar, who shall have qualified in accordance with standards of education and experience as the board shall determine.

2. In case of a vacancy in the office of state registrar, the board shall cause to be appointed a successor. The state registrar shall receive the compensation fixed by the board.

3. The state board of health is authorized to appoint when necessary assistant state registrars who shall be assistants to the state registrar. (L. 1941, ch. 130, Secs. 5, 44, repealing original and adding new section.)

Sec. 6. Duties of State Registrar. 1. The state registrar, under the supervision of the state health officer, shall have charge of the bureau of vital statistics and shall act as custodian of all certificates and records received by him, and perform such other duties as the board may prescribe.

2. He is charged with the execution of this act and of the regulations of the board throughout the state and he shall have supervisory power over the local registrars and deputy local registrars. (L. 1941, ch. 130, Secs. 6, 44, repealing original and adding new section.)

Sec. 7. Appointment of Local Registrars. 1. The health officer of counties may act as county regis-

trar when authorized so to do by the state board of health.

2. The health officer of each city and incorporated town of 2,000 population and over may act as the local registrar in and for such primary registration district when authorized so to do by the state board of health, and when so authorized shall perform all the duties of local registrar as hereinafter provided; provided, however, he shall receive no additional compensation therefor.

3. The board, on the recommendation of the state registrar, shall appoint such number of local registrars for the registration districts as may be necessary.

4. In case of death, resignation or removal of any local registrar, the board shall appoint a successor, and until such successor has been appointed and qualified the senior local deputy shall have the authority of a local registrar. (L. 1941, ch. 130, Secs. 7, 44, repealing original and adding new section. (Am. L. 1947, ch. 161, Sec. 2.)

Sec. 8. Appointment of Deputy Local Registrars. A local registrar, upon the approval of the state registrar, may appoint deputies, and in case of death, resignation or removal of any deputy, a successor. (L. 1941, ch. 130, Secs. 8, 44, repealing original and adding new section.)

Sec. 9. Appointment of Other Personnel: (Status, Compensation and Duties.) The board shall provide for such other assistance as may be necessary to enforce this act and the regulations thereunder and shall determine the status, compensation and duties of persons thus employed. (L. 1941, ch. 130, Secs. 9, 44, repealing original and adding new section.)

Sec. 10. Form of Certificates. The forms of the various certificates to be used under this act shall include as a minimum the items required by the respective standard certificates as recommended by the United States bureau of census. The use of such certificates shall be subject to the provisions of section 99-1020. (L. 1941, ch. 130, Secs. 10, 44, repealing original and adding new section.)

Sec. 11. Evidentiary Character of Certificates: (Data as to Father of Child.) Each certificate, as

provided for in this act, filed within six months after the time prescribed for their filing, shall be prima facie evidence of the facts therein stated. Data pertaining to the father of a child are such evidence if the alleged father is, or becomes, the husband of the mother in a legal marriage; if not, the data pertaining to the father of the child are not such evidence in any civil or criminal proceeding adverse to the interests of the alleged father, or of his heirs, devisees, or other successors in interest, if the paternity is controverted. (L. 1941, ch. 130, Secs. 11, 44, repealing original and adding new section.)

Sec. 12. Same as to Certified Copies. The contents, or part of the contents, and the due execution of any certificate on file in the bureau of vital statistics, may be evidenced by a copy of such material contained in the certificate, as certified by the state registrar, and such certified copies shall be admitted as evidence the same as the originals. (L. 1941, ch. 130, Secs. 12, 44, repealing original and adding new section.)

Sec. 13. Right to Certified Copy. The state registrar and local health officers shall, upon request, subject to the provisions of section 19 of this act, furnish to any applicant a certified copy of the original certificates, or any part thereof, filed in his office, or permit their inspection; provided further, however, that a certified copy of a copy of a certificate may not be issued. (L. 1941, ch. 130, Secs. 13, 44; Am. L. 1947, ch. 161, Sec. 2.)

Sec. 13a. Certified Copy of Certificate or Record of Illegitimate Birth. In issuing any certified copy of a certificate of illegitimate birth, or of any record of an illegitimate birth, the state board of health, or the state registrar, hereby is authorized and directed to omit therefrom any reference to or information concerning the fact of illegitimacy, and any copy so issued shall be considered a true copy and shall be prima facie evidence of all facts appearing therein relating to such birth; provided, that no such copy shall be issued in any event except upon order of the state registrar of vital statistics or the judge of a court of competent jurisdiction. (L. 1941, ch. 77, sec. 1.)

Sec. 13b. From and after the effective date of this act all birth certificates or copies thereof issued by the state board of health or by any registrar shall have eliminated therefrom any and all references to

the legitimacy or illegitimacy of the person whose birth is mentioned therein. (L. 1947, ch. 343.)

Sec. 14. Fees for Certified Copies and Search of Files: (Conditions for Free Copies or Search:) Transcripts for United States Bureau of Census: War Veterans' Exemption from Payment of Fees. The fee for making a certified copy shall be 50 cents. The board shall prescribe the fee for any search of the files and records, and when no certified copy is made, for each hour of search or fraction thereof, and the conditions under which the state registrar shall furnish a certified copy, or make a search of the files and records, free of charge. The United States bureau of the census may obtain, without expense to the state, transcripts of certified copies of the several types of certificates specified in this act without payment of fees. Provided, that any war veteran or his duly appointed agent, upon a satisfactory showing to the state registrar that such documents are to be used by him as evidence in a claim for war veteran benefits or a claim based upon relationship to a war veteran, may obtain transcripts or certified copies of the several types of certificates specified in this act without payment of fees. (L. 1941, ch. 130, Secs. 14, 44, repealing original and adding new section; Am. L. 1943, ch. 121, Sec. 1.)

99-1015. Abbreviated Certificate of Birth. The state board of health hereby is authorized to issue an abbreviated certificate of birth for use in verifying the ages of children and other persons entering school, applying for work permit and similar uses. Each such abbreviated form shall include the place of birth, full name of child, sex of child, date of birth and the number of the state registration of the original certificate of birth. This abbreviated certificate shall be mailed by the state board of health without charge to the applicant on receipt of the registration of his or her birth. (L. 1937, ch. 400, Sec. 1, p. 608.)

Sec. 15. Accounting of Fees: (Bond Required of State Registrar: Disposition of Fees.) The state registrar shall keep a correct account of all fees received and shall turn the same over to the state treasurer to be used by the board of administration of this act. The state registrar shall give a fidelity bond in the penal amount of \$2,000. The fees collected by cities and counties shall be paid into the treasury of said counties and cities. (L. 1941, ch.

130, Secs. 15, 44, repealing original and adding new section.)

Sec. 16. Acceptance of Delayed or Altered Certificates: (Regulations: Court Order.) The acceptance for filing of any certificate by the state registrar more than six months after the time prescribed for their filing, and any alterations of such certificate after it is filed with the state registrar, shall be subject to regulations in which the board shall prescribe in detail the proofs to be submitted by any applicant for delayed filing or an alteration of a certificate, or to the order of the county court or any other court of competent jurisdiction. (L. 1941, ch. 130, Secs. 16, 44, repealing original and adding new section.)

Sec. 17. Procedure Concerning Delayed and Altered Certificates. 1. Certificates accepted subsequent to six months after the time prescribed for filing, and certificates which have been altered after being filed with the state registrar, shall contain the date of the delayed filing and the date of the alteration and be marked distinctly "Delayed" or "Altered."

2. After a certificate has been accepted for delayed filing or after the board has permitted an alteration of a certificate on file, the alteration shall be noted by the state registrar on the certificate, together with a summary statement of the evidence submitted in support of the acceptance for delayed filing or the alteration.

3. All the evidence affecting delayed certificates, or affecting the alteration of a certificate, after said certificate has been filed with the state registrar, shall be returned to the person furnishing same. (L. 1941, ch. 130, Secs. 17, 44; Am. L. 1947, ch. 161, Sec. 3.)

Sec. 18. Admissibility of Delayed and Altered Certificates as Evidence. The admissibility in evidence of a "delayed" or "altered" certificate shall be subject to the discretion of the court, judicial or administrative body or official to whom any such certificate is offered as evidence. (L. 1941, ch. 130, Secs. 18, 44, repealing original and adding new section.)

Sec. 19. (Inspection of Certificates:) Disclosure of Records: (Disclosure of Illegitimacy, etc.: Interest of Applicant for Inspection: Data for Research Purposes.) 1. All certificates in the custody of the state

registrar are open to inspection, subject to the provisions of this act and regulations of the board; and it shall be unlawful for any employe of the state to disclose data contained in vital statistics, except as authorized by this act or by the board.

2. Disclosure of illegitimacy of birth or information from which legitimacy or illegitimacy of birth of any child can be ascertained may be made only upon order of a court of competent jurisdiction in a case where such information is necessary for the determination of personal or property rights, and then only for such purpose.

3. The state registrar shall not permit inspection of the records, or issue a certified copy of a certificate, or parts thereof, unless he is satisfied that the applicant therefor has a direct and tangible interest in the matter recorded, subject, however, to review of the board or a court of competent jurisdiction under the limitations of this section.

4. The board may permit the use of data contained in vital statistical records for research purposes, but without identifying the persons to whom the records relate. (L. 1941, ch. 130, Secs. 19, 44, repealing original and adding new section.)

Sec. 20. Reports to Federal and State Agencies. The board may direct the local registrars to, and they shall, make a return, upon the filing of birth, death and stillbirth certificates with them, of certain data shown thereon to federal, state or municipal social agencies. Data relating to war veterans, if requested by the director of veterans affairs, or if known to be such by the registrar, shall be certified and forwarded to the office of the director of veterans affairs by the local registrar. Payment by such agencies for such service may be made through the state registrar to local registrars as the board shall direct, except that certificates relating to war veterans shall be forwarded to the director of veterans affairs without charge and on forms prescribed and supplied by him. (L. 1941, ch. 130, Sec. 20; Am. L. 1947, ch. 141.)

Sec. 21. Adoption: (Duty of State Registrar: Opening Scaled Documents.) Adoption. 1. Whenever any court enters a decree for the adoption of any person, it shall be the duty of the court or the clerk thereof to mail to the state registrar a certified copy of such decree. Upon receipt of such copy of decree

the state registrar shall, if the original birth certificate is of record in his office, prepare and file a supplementary certificate in accord with such decree in the new name of the adopted person without reference therein to such adoption or to the names of such person's natural parents, and with reference therein to the adoptive parents as the parents of such person. If the original birth certificate is of record with any local registrar, the state registrar shall procure the same and shall prepare and file such supplementary certificate. If no certificate of the birth of such person is of record with the state registrar or any local registrar, the state registrar shall nevertheless prepare and file such supplementary certificate. The state registrar shall then inclose the original birth certificate and the certified copy of the adoption decree in a sealed envelope and file the same in his office.

2. Such sealed documents may be opened by the state registrar only upon the demand of the adopted person if of legal age, or by an order of a court of competent jurisdiction. Upon receipt of a certified copy of a court order of annulment of adoption, the state registrar shall restore the original certificate to its original place in the files. (L. 1941, ch. 130, Secs. 21, 44, repealing original and adding new section; Am. L. 1943, ch. 81, Sec. 1, effective February 18, 1943.)

Sec. 22. Legitimation: (Birth Certificate in New Name; Sealing Evidence and Original Certificate.)

1. In case of the legitimation of any child by subsequent marriage of its parents, the state registrar, upon receipt of a certified copy of the marriage certificate of the parents, together with a statement of the husband acknowledging paternity, shall prepare a new certificate of birth in the new name of the child, so legitimated.

2. The evidence upon which the new certificate was made, and the original certificate, shall be sealed and filed and may be opened only upon order of a court of competent jurisdiction. (L. 1941, ch. 130, Secs. 22, 44, repealing original and adding new section.)

Sec. 23. Other Persons Under Duty to Make Records: (Persons in Charge of Institutions; Statistical Record of Inmates.) All superintendents or managers or other persons in charge of hospitals, almshouses, lying-in or other institutions, public or pri-

vate, including penal institutions, to which persons resort for treatment of disease or injury and childbirth, or are committed by process of law, shall make a record of all such statistical particulars relative to the inmates of their institutions as provided for by this act and subject to its limitations. (L. 1941, ch. 130, Secs. 23, 44 repealing original and adding new section.)

Sec. 24. Compulsory Registration of Births. A certificate of every birth shall be filed with the local registrar of the registration district in which the birth occurred, within the time prescribed by the board, by either the physician or midwife in attendance at the birth; or, if not so attended, by one of the parents; provided, however, that a certificate of an illegitimate birth shall be filed with the state board of health and not with the registrar of the district in which it occurred. (L. 1941, ch. 130, Sec. 24; Am. L. 1947, ch. 161, Sec. 5.)

Sec. 24a. Alternate Method: Certificates of Physicians or Midwives: When Made: Filing: Information: Certificates or Copies as Evidence: Fee for Copy. In addition to the methods provided by law for the registration of births of persons heretofore born within the state of Oregon, the certificates of the physicians or midwives attending such births made at any time after such births may be filed with the state board of health. Such certificates shall set forth the following information: The place and date of birth, the full name and sex of the child, the names, residences, color or race, birth-places, ages and occupations of the father and mother and the maiden name of the mother, and shall be signed by such physicians or midwives and shall give their respective addresses. Such certificates or copies thereof, certified to by the secretary of the state board of health, shall be prima facie evidence in all courts and places of the facts therein stated. Such certified copies shall be furnished for a fee of fifty (50) cents. (L. 1943, ch. 170, Sec. 1, effective March 1, 1943.)

Sec. 25. Local Registrar to Prepare Birth Certificate: (Supplementary Report). 1. If neither of the parents of the newborn child, unattended by either physician or midwife, is able to prepare a birth certificate, the local registrar shall secure the necessary information for the preparation of a birth certificate from any person having knowledge of the birth.

2. The board shall prescribe by regulations the time within which a supplementary report furnishing information omitted on the original certificate may be returned for the purpose of completing the original certificate. Certificates of birth completed by a supplementary report shall not be considered as "delayed" or "altered." (L. 1941, ch. 130, Secs. 25, 44, repealing original and adding new section.)

Sec. 26. Registration of Foundlings: Form of Foundling Report: (Place and Date of Birth: Report as Birth Certificate: Sealing and Filing Report.)

1. Whoever assumes the custody of a living child of unknown parentage shall report immediately, on a form to be approved by the board, to the local registrar of the registration district in which such custody is assumed, the following:

- (a) Date of finding or assumption of custody;
- (b) Place of finding or assumption of custody;
- (c) Sex;
- (d) Color or race;
- (e) Approximate age;
- (f) Name and address of the person or institution with whom the child has been placed for care, if any;
- (g) Name given to the child by the finder or custodian.

2. The place where the child was found or custody has been assumed shall be known as the place of birth, and the date of birth shall be determined by approximation.

3. The foundling report shall constitute the certificate of birth for such foundling child and the provisions of this act relating to certificates of birth shall apply in the same manner and with the same effect to such report.

4. If a foundling child shall later be identified and a regular certificate of birth be found or obtained, the report constituting the certificate of birth shall be sealed and filed and may be opened only upon order of a court of competent jurisdiction. (L. 1941, ch. 130, Secs. 26, 44, repealing original and adding new section.)

Sec. 27. Compulsory Registration of Deaths and Stillbirths. A certificate of every death or stillbirth shall be filed with the local registrar of the registration district in which the death or stillbirth

occurred within three days after the death or stillbirth occurred, or if the place of death or stillbirth is not known then the local registrar of the district in which the body is found within 24 hours after the the finding of the body, and in every instance a certificate shall be filed prior to interment, cremation, removal or other disposition of the body. (L. 1941, ch. 130, Secs. 27, 44, repealing original and adding new section.)

Sec. 28. Preparation of Death or Stillbirth Certificate. The funeral director, or person acting as such, or the person in charge of interment, shall first obtain and enter on the death or stillbirth certificate the personal data required by the board from the person best qualified to supply them; second, present the certificate of death to the physician last in attendance upon the deceased, or to the medical examiner, or coroner, if such officer has jurisdiction of the death, in which event such party thereupon shall certify over his signature the cause of death to his best knowledge and belief; third, present the certificate of stillbirth to the physician, midwife or other person in attendance at the stillbirth, for the certification of the fact of stillbirth, and the medical data pertaining to stillbirth as physician or midwife can furnish them in their respective professional capacities. If the death occurred without medical attendance, or if the physician in attendance dies or becomes physically incapacitated before signing the certificate, the said funeral director or said person shall notify immediately the approximate local registrar of such death, and when so notified, the registrar shall inform the local health officer, and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, cremation or other disposition of the body. When the local health officer is not a qualified physician, or when there is no such officer, the registrar may complete the certificate on the basis of the information received from relatives of the deceased or from other persons having knowledge of the facts. (L. 1941, ch. 130, Secs. 28, 44, repealing original and adding new section.)

Sec. 29. (Sale of Caskets Record and Report by Seller: Enclosing notice, Blank Certificate, etc., in Casket). It shall be the duty of every person, firm or corporation selling a casket to keep a record showing the name and postoffice address of the purchaser, the name of the deceased and the date and place of death

of the deceased, which record shall be open to inspection of the state registrar at all times, and it shall be the duty of every person, firm or corporation selling caskets to report, on the first day of each month, to the state registrar, each sale for the preceding month, on a blank provided for that purpose; provided, however, that no person, firm or corporation selling caskets to dealers or undertakers only shall be required to keep such record. It shall be the duty of every person, firm or corporation selling a casket at retail, and not having charge of the disposition of the body, to inclose within the casket a notice furnished by the state registrar calling attention to the requirements of the law, a blank certificate of death and a copy of the rules and regulations of the state board of health concerning the burial or other disposition of dead bodies. (L. 1941, ch. 130, Sec. 29.)

Sec. 30. Delayed Determination of the Cause of Death: (Notice to Local Registrar.) If the cause of death cannot be determined within three days after death, the certification of the cause of death may be returned after the prescribed period, but the attending physician, medical examiner or coroner shall then notify in writing the local registrar of the registration district in which the death occurred of the reason for the delayed certification of the cause of death, in order that a permit for the disposition of the body may be issued. (L. 1941, ch. 130, Sec. 30.)

Sec. 31. Permit for Removal, Burial or Other Disposition of Body. When the death or stillbirth occurred within this state, or when a dead body is found within this state, the deceased, stillborn child or dead body shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from any registration district, until a permit for burial, removal or other disposition shall have been issued by the local registrar. (L. 1941, ch. 130, Sec. 31.)

Sec. 32. Foreign Permit for Removal, Burial or Other Disposition of Body. When the death or stillbirth occurred outside this state and the body is accompanied by a permit for burial, removal or other disposition issued in accordance with the law and the regulations of the board in force at the place where the death or stillbirth occurred, such permit authorizes the transportation of the body into or through this state, but before the interment, cremation or other disposal of the body within this state, such per-

mit shall be indorsed by the local registrar, who shall keep an appropriate record thereof. (L. 1941, ch. 130, Sec. 32.)

Sec. 33. Prerequisites for Permit. No permit for burial, cremation, removal or other disposition shall be issued by any local registrar until a certificate of death or stillbirth, as far as it can be completed under the circumstances of the case, has been filed with him, and until all the regulations of the board in respect to the issuance of such permit have been complied with. No permit shall be issued which would be contrary to the sanitary laws of this state. (L. 1941, ch. 130, Sec. 33.)

Sec. 34. Return of Original Certificates to State Registrar. The local registrars shall return all the original certificates filed with them to the state registrar in accordance with the regulations of the board. (L. 1941, ch. 130, Sec. 34.)

Sec. 35. Compensation of Local Registrars. Each local registrar shall be entitled to be paid the sum of 25 cents for every birth, death or stillbirth certificate properly and completely made out and filed with him and returned by him to the state registrar in accordance with the regulations of the board. In case no births, deaths or stillbirths were registered during any calendar month, the local registrar shall so report and be entitled to be paid the sum of 25 cents for each such report promptly made. The board is authorized to change by regulation, as the necessity therefor arises, the amounts specified herein to be paid to local registrars; and the board, in its discretion, may limit the aggregate amount of fees to be paid per annum to any local registrar either by setting an annual aggregate maximum of such fees or by graduating the fees according to the number of registrations. (L. 1941, ch. 130, Sec. 35.)

Sec. 36. Procedure for Payment. The fees of local registrars shall be paid, upon certification by the state registrar, by the treasurer of the county in which the registration district is located, out of the general fund of the county. The state registrar shall periodically certify to the treasurer of the several counties the number of births, stillbirths and deaths registered, with the names of the local registrars and the amount due each. (L. 1941, ch. 130, Sec. 36.)

Sec. 37. Report of Marriages and Divorces. It shall hereafter be the duty of the county clerk of each county to report to the secretary of the state board of health, not later than the tenth day of each and every month, the number of marriage licenses issued and the number of marriage contracts dissolved during the preceding month within such county, together with such facts relating thereto as may be provided for by blanks furnished to such clerk by the secretary of the state board of health. These reports, so received, shall be filed, compiled and registered by the secretary of the Oregon state board of health and shall become permanent public records. (L. 1941, ch. 130, Sec. 37.)

Sec. 38. Violation of the Act: (Punishment). Except where a different penalty is provided in this act, any person who violates any of the provisions of this act, or neglects or refuses to perform any of the duties imposed upon him by this act, shall, upon conviction, be fined not more than \$100. (L. 1941, ch. 130, Sec. 38.)

Sec. 39. Alteration of Certificate Contrary to Act. Any unauthorized person who wilfully makes or alters any certificate as provided for in this act, or another certified copy thereof, except in accordance with the provisions of this act, shall, upon conviction, be fined not more than \$1,000, or be imprisoned not exceeding six months, or both such fine and imprisonment. (L. 1941, ch. 130, Sec. 39.)

Sec. 40. Illegal Transportation (of Dead Body). Any person who knowingly transports, carries or accepts for transportation a dead body without an accompanying permit issued in accordance with the provisions of this act and the regulations of the board, shall, upon conviction, be fined not more than \$500. (L. 1941, ch. 130, Sec. 40.)

Sec. 41. Duty of State Registrar in Enforcing Act. The state registrar may investigate in behalf of the board all cases of irregularity or of violation of this act and of any regulations of the board. (L. 1941, ch. 130, Sec. 41.)

Sec. 42. Duties of Local Registrars in Enforcing Act. 1. The local registrars and their deputies are charged with the duty of complying with all instructions of the state registrar, and of checking upon the

compliance by others with the provisions of this act and with the regulations of the board.

2. The local registrars shall make an immediate report to the state registrar of any violation of this act or of the regulations of the board coming to their notice by observation or upon complaint of any person, or otherwise. (L. 1941, ch. 130, Sec. 42.)

Sec. 43. Annual Reports (of Administration of Act). The state registrar may submit to the legislature and the governor an annual report of the administration of this act. (L. 1941, ch. 130, Sec. 43.)

ENFORCEMENT OF REGULATIONS: MISCELLANEOUS

Sec. 99-1101. Duties of Local and State Health Officers and Registrars, Prosecuting Attorneys, and Attorney-General. The local health officers and local registrars are hereby charged with the strict and thorough enforcement of the provisions of this act in their districts, under the supervision and direction of the state health officer and state registrar. And they shall make an immediate report to the state health officer or registrar of any violation of this law coming to their notice by observation, or upon the complaint of any person, or otherwise. The state health officer and state registrar is hereby charged with the thorough and efficient execution of the provisions of this act in every part of the state, and with supervisory powers over all health officers and local registrars, to the end that all of the requirements shall be complied with. They shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all health officers and local registrars shall aid them, upon request, in such investigation. When deemed necessary, they shall report cases of violation of any of the provisions of this act to the prosecuting attorney of the proper county with the statement of the facts and circumstances; and when any such case is reported to them by the state health officer, or state registrar, all prosecuting attorneys or officials acting in said capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the

parties responsible for the alleged violations of law. And, upon request of the state health officer, or state registrar, the attorney-general shall likewise assist in the enforcement of the provisions of this act. (L. 1915, ch. 268, Sec. 22; L. 1919, ch. 264, Sec. 148, p. 385; O. L. Sec. 8515; O. C. 1930, Sec. 59-1301.)

Sec. 99-1102. Punishment for Violation of Act, Rule or Regulation, or Order of Health Officer. Any person who shall violate any of the provisions of this act or any lawful rules or regulations made by the state board of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer, pursuant to the authority granted in this act, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than a year or by both such fine and imprisonment. (L. 1919, ch. 264, Sec. 149, p. 385; O. L. Sec. 8516; O. C. 1930, Sec. 59-1302.)

Sec. 99-1103. Jurisdiction of Prosecutions: How Prosecutions Instituted. Justice courts, circuit courts and municipal courts sitting as justice courts shall have concurrent jurisdiction with the circuit courts of all prosecutions arising under this act. The district attorney, or county attorney or attorney-general is authorized to institute prosecutions for violation of this act by informaion or the same may be instituted by indictment or by complaint verified before any magistrate. (L. 1919, ch. 264, Sec. 150, p. 385; O. L. Sec. 8517; O. C. 1930, Sec. 59-1303.)

Sec. 99-1104. Interference with Individual's Selection of Physician or Treatment or with Religious Practice Prohibited. Nothing in this act shall be construed to empower or authorize the state board of health or its representatives, or any county board of health or its representatives, or any city board of health or its representatives, to interfere in any manner with the individual's right to select the physician or mode of treatment of his choice, nor interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means; providing, however, that sanitary laws, rules and regulations are complied with. (L. 1919, ch. 264, Sec. 151, p. 385; O. L. Sec. 8518; O. C. 1930, Sec. 59-1304.)

DAY NURSERIES

Sec. 99-1201. Definitions. For the purposes of this act, a day nursery is defined to be any institution, establishment or place in which are commonly received at one time three or more children not of common parentage, under the age of fourteen years, for a perior or periods exceeding four but not exceeding twelve hours, for the purpose of nursing and care apart from their parents or guardians, irrespective of compensation or reward. (L. 1921, ch. 46, Sec. 1, p. 69; O. C. 1930, Sec. 59-1601.)

Sec. 99-1202. License: Application for and Issuance of License: Expiration and Renewal: Transfer: Fees. No person, firm, association or corporation shall conduct a day nursery without receiving a license from the state board of health. An application therefor shall be in a form prescribed by the said board, and shall be uniform for all day nurseries. There shall be attached to the application a statement, sworn to by the applicant or by an officer thereof duly authorized thereto, containing such information as may be required by the board. If, in the judgment of the said board, the said statement or any other evidence submitted in relation to the application indicates that the operation of the proposed day nursery will be for the public benefit and welfare, a license, in such form as the board may prescribe, shall be issued to the applicant. All licenses shall expire at the end of the calendar year in which they are issued, but may be renewed annually on application as provided for their initial issue. No license shall be transferred except with the approval of the said board. For the issue or renewal of each license, a fee of \$5 shall be charged. (L. 1921, ch. 46, Sec. 2, p. 69; O. C. 1930, Sec. 59-1602.)

Sec. 99-1203. State Board of Health: Authority to Make Rules and Regulations: Revocation of License for Violation. The state board of health shall make rules and regulations, and may revise or change the same in accordance with which day nurseries shall be licensed and conducted; and failure to comply with any such rule or regulation shall be sufficient cause for revocation of the license in the manner provided in the following section. (L. 1921, ch. 46, Sec. 3, p. 69; O. C. 1930, Sec. 59-1603.)

Sec. 99-1204. Visitation and Inspection: Procedure for Revocation of License: Reports and Data May Be Required. The state board of health, by its authorized agents, shall have authority to visit and inspect any day nursery at any time in order to ascertain whether it is licensed and conducted in compliance with law, including the provisions of this act, and with the rules and regulations established hereunder. Every day nursery shall so be visited and inspected at least once in each year. After thirty days' notice to a licensed day nursery and opportunity to be heard, the state board of health may, if in its judgment the public interest so demands, revoke the license of the nursery. Every day nursery shall furnish to the said board such reports, information and other data as it may require. (L. 1921, ch. 46, Sec. 4, p. 69; O. C. 1930, Sec. 59-1604.)

Sec. 99-1205. Existing Nurseries Exempted for Current Year: Inspection. Day nurseries legally incorporated or in operation in this state at the date of the taking effect of this act shall, on furnishing the statement or other information required under section 99-1202 of applicants for licenses, be permitted to continue in operation for the remainder of the calendar year without securing a license under this act. The said state board is hereby directed to cause an inspection to be made, prior to the thirty-first day of December in the current year, of all day nurseries in this state. (L. 1921, ch. 46, Sec. 5, p. 69; O. C. 1930, Sec. 59-1605.)

Sec. 99-1206. Punishment of Violator: Closing of Nursery. Except as provided in section 99-1205, any person, firm, association or corporation which establishes, conducts, manages or maintains a day nursery without first having obtained a license therefor, or after the revocation of the license, or in violation of any provisions of this act or regulation made hereunder, and any person, firm, association or corporation which violates any provision of this act or any regulation made hereunder, shall be punished by a fine of not less than \$10 nor more than \$200 for each offense. If any person, firm, association or corporation conducting a day nursery shall be found guilty of a violation of any provision of this act or of any such regulation, in any particular relating to the safety of or the accommodations for the children, it shall be the duty of the state board of health to issue an order directing that such nursery be closed, and remain closed until such provision or regulation has been

complied with. (L. 1921, ch. 46, Sec. 6, p. 69; O. C. 1930, Sec. 59-1606.)

Sec. 99-1207. **State or Municipal Nurseries Excepted.** The provisions of this act shall not apply to day nurseries conducted by the state or by any city or town thereof. (L. 1921, ch. 46, Sec. 7, p. 69; O. C. 1930, Sec. 59-1607.)

MANUFACTURE AND SALE OF BEDDING MATERIAL

Sec. 99-1301. **Definitions.** The word "bedding" shall mean any mattress, bolster, comforter, feather bed, cushion, and upholstered furniture. That the word "mattress" shall mean any quilted pad, mattress, mattress pad, mattress protector, bunk quilt, or box spring, stuffed or filled with excelsior, straw, hay, moss, fiber, cotton, wool, hair, jute, kapok, or other soft material to be used on a couch or other bed for sleeping or reclining purposes. The words "pillow," "bolster," or "feather bed," shall mean any bag, case or covering made of cotton or other textile material and stuffed or filled with fiber, cotton, wool, hair, jute, feathers, feather down, kapok, or other soft material to be used on a bed, couch, divan, sofa, lounge, or other articles of upholstered furniture for sleeping or reclining purposes. The word "comforter" shall mean any cover, quilt or quilted article made of cotton or other textile material and stuffed or filled with fiber, cotton, wool, hair, jute, feathers, feather down, kapok, or other soft material to be used for sitting, resting or reclining purposes. The word "cushion" shall mean any bag, or case made of leather, cotton, or other textile material and filled with fiber, cotton, wool, hair, feathers, feather down, kapok, and other soft materials to be used as a hammock, chair, couch, divan, sofa or lounge or other article of furniture for reclining, resting, or sleeping purposes, except where such cushions are a component part of upholstered furniture. The words "upholstered furniture" shall mean any article of furniture stuffed or filled with excelsior, straw, moss, fiber, cotton, wool, hair, jute, feathers, feather down, kapok or other soft material to be used for sitting, resting or reclining purposes. (L. 1923, Ch. 268, Sec.

1; L. 1927, Ch. 318, Sec. 1; L. 1929, Ch. 217, Sec. 1, Page 226; O. C. 1930, Sec. 59-1801.)

Sec. 99-1302. Person. The word "person" implies individuals, partnerships, companies, corporations, societies, associations or others of any gender, as the case may be. (L. 1923, Ch. 268, Sec. 2, Page 388; O. C. 1930, Sec. 59-1802.)

Sec. 99-1303. Shoddy, Waste and Second-Hand. For the purpose of this act, "shoddy," "waste" and "second-hand" are hereby defined as follows: "Shoddy" shall embrace all materials resulting from the disintegration of any old fabric. "Waste" shall embrace all discarded materials from mills, garbage, sweepings, waste receptacles, or other possibly contaminated materials. Wastes which are by-products of machines at mills using new raw materials are excepted when free from contamination. "Second-hand" shall embrace all material which has been previously used in bedding or otherwise, or material which possibly has been contaminated. (L. 1923, Ch. 268, Sec. 18, Page 388; O. C. 1930, Sec. 59-1818.)

Sec. 99-1304. Labels and Sterilization: Bedding or material Therefrom: Contents of Invoice: Filling Materials. No person shall at wholesale or retail, directly or indirectly, make or repair, sell, offer for sale, deliver, rent, consign, lease, or otherwise commercially dispose of or have in his possession with intent to dispose of any article of bedding or material therefrom not plainly and indelibly labeled with a cloth or cloth-lined tag, not smaller than three inches square, securely sewed at least on one edge into the outseams of the articles, truthfully setting forth in the English language its contents, weight, measurements, amount by weight of each kind of material, whether new, shoddy or waste or secondhand, in whole or in part, used in its manufacture, with the name and address of the manufacturer or vendor thereof, or both. All invoices or other instruments of delivery shall set forth the true description of the merchandise that passes, as enumerated on the labels. Example: "6-35 lb. Prime Java-Kapok 4/4 Mattresses, @ 15-90."

All bulk materials, whether raw or processed, which are to be used or may be used as a filling for any article covered by this act shall be labeled as herein provided. (Am. L. 1941, Ch. 147, Sec. 1.)

Sec. 99-1305. Waste, Secondhand material or Shoddy: Label Designs: Use of Secondhand Materials Returned to Owner. When waste, secondhand materials or shoddy are used in the repair or manufacture of any article of bedding they must be enumerated on a label in type not smaller than $\frac{1}{4}$ -inch face, and such materials must be sterilized by the process approved by the state board of health, said process defining all such materials to be sterilized. Labels necessary in carrying out the purpose of any part of this act shall be designed by the state board of health subject to final approval by the attorney-general.

The use of secondhand material previously used in any article covered by this act except owner's own materials when returned to the original owner for that owner's personal use, shall be prohibited in the manufacture of any article covered by this act, unless such materials be sterilized in compliance with this section. (Am. L. 1941, Ch. 147, Sec. 2.)

Sec. 99-1306. Secondhand Bedding: Refumigation: Separation of New or Fumigated Articles: Fumigation Labels: Reports by Authorized Fumigators. No person shall dispose of as set forth in section 99-1304, O.C.L.A., any article of bedding which has been previously used or subject to contamination which has not been sterilized as set forth in section 99-1305, O.C.L.A., and labeled as set forth in sections 99-1304 and 99-1305, O.C.L.A., as secondhand material, giving date of sterilization. Each and every article covered by this act shall be refumigated at the expiration of two years from the date of its last fumigation as shown by its attached label. Change of ownership or possession, except those changes which result because of commerce between dealers and jobbers within the state, shall be cause for refumigation. New or fumigated articles of upholstered furniture or bedding shall at all times be kept separate from any secondhand articles or materials that are unfumigated. Fumigation labels shall be supplied only to state authorized fumigators and/or dealers and shall not be sold or transferred to another party except when such transfer or sale is authorized by the state board of health. Possession of labels by persons other than those to whom they were issued shall be construed as a violation of this act, and both transferor and transferee shall be jointly guilty when such violation occurs. All illegally possessed labels shall be delivered to the state board of health or to an authorized representative of the bedding division.

All state-authorized fumigators shall make monthly reports to the bedding and furniture division showing the previous month's record of fumigation done with reference to articles coming within the meaning of this act. Failure to comply shall be considered cause for revocation of authorization to fumigate, or punishment, upon conviction, may be invoked as provided for in section 99-1314, O.C.L.A., or both. (Am. L. 1941, Ch. 147, Sec. 3.)

Sec. 99-1307. Containers Holding Second-Hand, Waste, or Shoddy Products Which Might Be Used in Bedding. No person shall dispose of as set forth in section 99-1304 any material or products which is in whole or in part second-hand or waste or shoddy which might enter into any article of bedding unless he so labels by tag or otherwise each parcel, package, box or container setting forth the true contents thereof, with the name of the vendor, and also the invoice or other instrument of delivery or sale shall be the true name or description of the material which passed. (L. 1923, Ch. 268, Sec. 7, Page 388; O.C. 1930, Sec. 59-1807.)

Sec. 99-1308. Form of Label. The general form of label covered by this act to be as follows:

This article is made in compliance with the act of the state of Oregon, approved day of, 19.....

Materials Used in Manufacture

Manufactured of.....

All new material.

Second-hand material, waste material, shoddy.

Remade of owner's material with.....lbs. new or second-hand.

Covering — New or second-hand.

grade.....oz. Sheeting....., drill....., sateen, etc.

15 lbs. Prime Java-Kapok	} Gross wt. 42 lbs.
25 lbs. Cotton Linters felted	
40 lbs. Staple cotton felted.	
40 lbs. White hair, etc.	

.....
(name of maker or vendor)

(L. 1923, Ch. 268, Sec. 8, Page 388; O.C. 1930, Sec. 59-1808.)

Sec. 99-1309. Removing or Defacing Label Prohibited. No person other than a purchaser for his own

use shall remove or cause to be removed, defaced, concealed, changed or altered any label or tag or its markings or statement on any article of bedding. (L. 1923, Ch. 268, Sec. 9, Page 388; O.C. 1930, Sec. 59-1809.)

Sec. 99-1310. Misleading Labels Prohibited. No person shall use any terms or other description on any label or tag upon any article of bedding which is likely to mislead or cause interference by the purchaser of any but the truthful contents of same, or use other than the standard definition, practice or terms of classification, where a standard classification exists concerning any commodity. (L. 1923, Ch. 268, Sec. 10, Page 388; O.C. 1930, Sec. 59-1810.)

Sec. 99-1311. Upholstered Furniture or Bedding from Hosiptal, Jail, Etc., Fumigation: Disposal or Sale of Bedding or Material, When Prohibited. Every article of upholstered furniture or bedding from any private or public hospital, jail or other institution, or which has been used by any person suffering from any infectious or contagious disease shall be fumigated before it is repaired or renovated.

No person shall dispose of or attempt to dispose of or offer for sale as set forth in section 99-1304, O.C.L.A., or otherwise, any article of bedding or material therefrom that has been used by or about any person having any infectious or contagious disease or by any private or public hospital or sanitarium on land or water or which has been thrown away with garbage or other waste material. (Am. L. 1941, Ch. 147, Sec. 4.)

Sec. 99-1312. Enforcement of Act by State Board of Health: Inspectors and Other Personnel: Appointment: Term of Office: Duty of "Chief of Furniture and Bedding Inspection": Salaries and Expenses. The state board of health, through its officers and employes, is hereby charged with the administration and enforcement of this act. The state board of health shall appoint one or more inspectors and other necessary personnel. The chief inspector shall be "Chief of Furniture and Bedding Inspection", and such inspectors and himself or other personnel shall hold office during the pleasure of the board. It shall be the duty of the "Chief of Furniture and Bedding Inspection" 'to inspect or to supervise the inspection of mattresses, bedding, furniture or other articles mentioned in this act coming from points without this

state and to enforce the provisions of this act within this state. The salaries of all personnel shall be fixed by the state board of health, and expenses necessarily incurred in the performance of their official duties shall be paid monthly, from the funds of the bedding and upholstery fund; provided, that their monthly accounts shall be first approved in writing by the secretary of the state board of health. (Am. I. 1941, Ch. 147, Sec. 5.)

Sec. 99-1313. Supervision of Manufacturer or Handler of Bedding Articles or Materials: Furnishing Information and Admitting Deputy to Premises: Reports of Transient Manufacturers or Renovators of Upholstery or Bedding: Effect of Failure to Comply: Issuance of New Permit After Revocation. Any person engaged in the manufacture of any article of bedding or handling in any way any of the articles as set forth in section 99-1304, O.C.L.A., or any of the materials that enter into any article of bedding, shall be subject to supervision and inspection by any deputy duly appointed for the enforcement of this act and shall furnish any information that said deputy may deem necessary in the performance of his duty in the enforcement of the act, and he shall admit said deputy to his premises or any part thereof.

(Reports of transient manufacturers or renovators of upholstery or bedding: Effect of failure to comply: Issuance of new permit after revocation.) All transient manufacturers and renovators of upholstery and/or bedding shall, on or before the fifteenth of each month, make a written report to the bedding division showing work performed and for whom during the previous month. Report forms shall be supplied for the purpose of facilitating these reports. Failure to comply with this section shall be considered cause for revocation of permit in addition to subjecting the offending permit holder to punishment as provided for in section 99-1314, O.C.L.A. Any person or firm whose permit has been revoked for cause cannot be issued another permit until 90 days from date of revocation have elapsed and then only upon satisfactory evidence of intent to comply with the requirements of the bedding law. (Am. L. 1941, ch. 147, Sec. 6.)

Sec. 99-1314. Punishment of Violator of Act: Unit of Separate Offense. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25

nor more than \$1,000, or by imprisonment in the county jail not to exceed six months, or both such fine and imprisonment. The unit for each separate offense shall be each and every article of bedding as set forth in section 99-1301. (L. 1923, ch. 268, Sec. 13, p. 388; O. C. 1930, Sec. 59-1813.)

Sec. 99-1315. Permit to Manufacture, Repair or Renovate Upholstery or Bedding, Etc.: Soliciting or Advertising: Separate Permits for Branch Establishments: Fees: Revocation: Punishment for Failure to Comply: Tags: "Bedding and Upholstery Fund." All persons commercially engaged in the making and repairing of any article of bedding as well as all persons who advertise or solicit work to renovate upholstered furniture and/or bedding must apply to the state board of health for a permit to be issued upon the payment of five dollars (\$5) yearly fee or any fraction thereof and every person or firm engaged in the manufacture, repair or renovation of upholstered furniture or bedding shall obtain a separate permit for each branch establishment operated or controlled by every such person or firm, and agree to conduct said business in a sanitary manner and in compliance with this act, said permit to be revocable at any time after 30 days' notice, should evidence of violation of this act or insanitary conditions be apparent to the inspector. All license fees under this act shall be paid on the first day of June of each year, beginning with the first day of June, 1927. To any renewal license not so paid there shall be added a penalty of 25 per cent for each month or part thereof delinquent. Failure to comply with the licensing provisions of this act shall, upon conviction, be punished as provided for in section 99-1314, O.C.L.A. Each and every mattress or article covered by this act shall bear, securely attached thereto, visible on the outside covering, a tag, to be procured from the state board of health, upon which shall be plainly and indelibly printed in English the words "The manufacturer certifies this article complies with the law." In addition, such tag shall bear thereon the replica of the seal of the state of Oregon printed thereon, and shall be not less than 2½ by 3½ inches. It shall be unlawful for any person to imitate, counterfeit, sell or have in his possession any imitated or counterfeited tag required under the provisions of this act. It shall be unlawful to remove, deface, alter or in any manner attempt the same, or cause to be removed, defaced or altered, any tag placed upon any article included in the provisions of this act. The state board of health hereby is authorized to contract for the printing of the

tags required by the provisions of this act. The secretary of the state board of health shall, upon the application to him by any maker, remaker, renovator or vendor, of any article covered by this act, furnish tags in quantities of not less than 250 tags, for which the applicant shall pay five dollars (\$5) for each 250 tags, except when tags are purchased in lots of not less than 1,000 the applicant shall pay fifteen dollars (\$15) for each 1,000 tags. Tags designed for use upon pillows, cushions, bolsters and comforters, and upon which shall be printed, in addition, "For use upon pillows, cushions, bolsters and comforters," shall be furnished in quantities of not less than 250 tags, for which the applicant shall pay two dollars and fifty cents (\$2.50) for each 250 tags, except when tags are purchased in lots of not less than 1,000 the applicant shall pay seven dollars and fifty cents (\$7.50) for each 1,000 tags. The fees so collected shall be paid over promptly to the state treasurer. The state treasurer shall establish a separate fund to be known as the "bedding and upholstery fund" into which all moneys collected under the provisions of this act shall be paid and from which all expenditures necessary in carrying into effect the provisions of this act shall be paid. All moneys in the "bedding and upholstery fund" hereby are specifically appropriated to the state board of health for the purpose of carrying into effect the provisions of this act and for the payment of salaries of employes and for research or other necessary expenses of the state board of health connected with the enforcement of this act. The money in the "bedding and upholstery fund" shall be paid to the use of the state board of health in advance, from time to time, as the same is required upon requisition by the secretary of the board, but such expenditures shall never be in excess of the fees so collected and paid into said fund. (Am. L. 1941, ch. 147, Sec. 7; Am. L. 1947, ch. 142.)

Sec. 99-1316. Inspection of Product or Records for Violations of Act. The members of the state board of health or its employes shall sample, or open in any way for inspection at any time or place, any article covered by the provisions of this act that he has reason to believe is in violation of this act, and upon examination, should he still be in doubt as to the true nature of the material or article, he shall consult invoices or other instruments or records he may see fit, held by any person, containing any information pertaining to the article or material in question. (L. 1923, ch. 268, Sec. 15; L. 1927, ch. 318, Sec. 4, p. 406; O. C. 1930, Sec. 59-1815.)

Sec. 99-1317. Condemnation and Destruction of Unlabeled or Unsanitary Products: Access of Officers to Premises and Records. The state mattress inspector, with the concurrence of the state or local health officers, is hereby authorized and empowered to condemn and destroy any article of bedding under the provisions of this act which is not labeled in compliance with this act or which, in their judgment, is unsanitary. The state mattress inspector or any officer of the state board of health shall have access to any premises where bedding as described in this act, or otherwise, is being manufactured, renovated, fumigated or displayed for sale, and shall have access to any records held by any person concerning the source from which such articles or material described in this act came. (L. 1923, ch. 268, Sec. 16; L. 1927, ch. 318, Sec. 5; L. 1929, ch. 217, Sec. 5, p. 226; O. C. 1930, Sec. 59-1816.)

Sec. 99-1318. Jurisdiction of Courts. Justices of the peace, district courts, county courts and all other courts having jurisdiction as justices of the peace, shall have concurrent jurisdiction with the circuit court of all prosecutions under this act. (L. 1923, ch. 268, Sec. 17; L. 1927, ch. 318, Sec. 6, p. 406; O. C. 1930, Sec. 59-1817.)

TOURIST COTTAGES AND CAMPS

Sec. 99-1401. "Tourist Cottages" and "Tourist Camp" Defined. The term "tourist cottages," wherever used in this act, shall mean and include any and all tourist cabins, tourist cottages, tourist courts, tourist homes, tourist rooms, tourist apartments, auto cabins, auto courts, auto apartments, motor courts, motor lodges, motor apartments and hotels rented or kept for rent on a daily, nightly or weekly basis to automobile transients for a charge or fee paid or to be paid for the rental or use of the same, whether the same be owned, leased, operated or maintained by a city, county, state, village, community, institution, firm, corporation, person or persons. The term "tourist camp," wherever used in this act, shall mean and include any and all tourist camps, picnic parks, and trailer camps rented or kept for rent to any person or persons for a charge or fee paid or to be paid for

the rental or use of the same, whether the same be owned, leased, operated or maintained by a city, county, state, village, community, institution, firm, corporation, person or persons. (Am. L. 1945, ch. 291, Sec. 1.)

Sec. 99-1402. Certificate of Inspection: Necessity for Certificate: Conformity to Regulations of State Board of Health. It shall be unlawful for any person or persons, city, county, state, village, community, institution, firm or corporation to establish, operate, manage or maintain any tourist cottages or tourist camp as herein defined, without first having obtained a certificate of inspection as herein provided from the state board of health authorizing the operation of such tourist cottages or tourist camp, which certificate of inspection is then in full force and effect. All tourist cottages and tourist camps shall be operated, equipped and maintained in accordance with the rules and regulations of the state board of health. (L. 1939, ch. 539, Sec. 2, p. 1180.)

Sec. 99-1403. Application for Certificate: Fees. Application for such certificates of inspection shall be made by the operator thereof to the state board of health, and the applicant shall set out therein the number of cabins, cottages, apartments, sleeping rooms and camping trailer or picnicking spaces included in the establishment to be licensed and operated, and the location thereof. The application shall be accompanied by the fee for such certificate, which fee for the year in which the certificate is issued shall be determined as follows:

(1) Up to and including five cabins, cottages, apartments, sleeping rooms, camping spaces or other rental units, five dollars (\$5);

(2) For each additional cabin, cottage, apartment, sleeping room, camping space or other rental unit, one dollar (\$1);

(3) For each picnic park, five dollars (\$5);

(4) For each establishment comprising both tourist cottages and a tourist camp, the fees shall be determined as in subsections 1 and 2 in this section above set forth.

(5) In no case may the fee to be paid for such certificate exceed thirty dollars (\$30). (L. 1939, ch. 539, Sec. 3; Am. L. 1947, ch. 163.)

Sec. 99-1404. Issuance, Form, and Contents of Certificate: Expiration Date. Upon receipt of such application and fee, and after the tourist cottages or camp have been inspected and found to comply with the provisions of this act and rules and regulations of the state board of health, the state board of health forthwith shall issue such certificate of inspection upon such form as the state board of health may prescribe, setting out therein the name and address of the applicant, the number of cabins, cottages, apartments and sleeping rooms to be operated and the location thereof, and all such certificates of inspection shall expire on the last day of December of the year in which they are issued. (L. 1939, ch. 539, Sec. 4, p. 1181.)

Sec. 99-1405. Revocation Clause: Procedure. Said certificate of inspection shall contain a condition or clause to the effect that if said applicant shall fail to comply with the provisions of this act and the rules and regulations of the state board of health, the certificate may be revoked. Whenever, in the judgment of the state board of health, any applicant to whom a certificate has been issued has failed to comply with the provisions of this act and the rules and regulations of said board, it shall revoke such certificate; provided that no application for such a certificate shall be denied, nor shall any such certificate be revoked, by said board, unless written notice of such intended action and specifying the time and place fixed for hearing thereon by said board has been mailed or delivered to the applicant for or holder of such certificate, as the case may be, at least 10 days prior to the time in such notice specified, nor unless said board has given such applicant or such holder full opportunity to be heard, if present, at the time and place so specified in such notice. (L. 1939, ch. 539, Sec. 5, p. 1181.)

Sec. 99-1406. Rules and Regulations by State Board of Health. The state board of health hereby is empowered, authorized and directed to make such rules and regulations for the construction and operation of tourist cottages and tourist camps as shall be reasonably necessary to effectively conserve the public health and safeguard the health and welfare of persons visiting or patronizing the same, and which shall pertain to water supplies, sewage disposal, drainage, plumbing, building construction and maintenance, lighting and ventilation, insect and rodent control, garbage and refuse disposal, allocation

and maintenance of camping space, the cleanliness of premises, buildings, furniture, bedding and linens, and the registration of guests; provided, however, that no rules or regulations shall be made prohibiting the construction of one-room cottages. (L. 1939, ch. 539, Sec. 6, p. 1182.)

Sec. 99-1407. Posting Cards and Certificates of Inspection. After a representative of the state board of health has determined by inspection that tourist cottages and tourist camps, as defined in this act, have complied with this act and the rules and regulations of the state board of health, he shall furnish cards to be posted in each cottage, cabin, apartment or rental unit, stating that the establishment has been inspected by the state board of health. All managers or operators of tourist cottages and tourist camps shall be responsible for the posting and maintenance of such cards in rental units. They also shall post the certificate of inspection in a conspicuous place in said place of business. (L. 1939, ch. 539, Sec. 7, p. 1182.)

Sec. 99-1408. Collection and use of fees and fines. All inspection fees and fines collected under this act shall be paid to the state board of health and be used in the administration and enforcement of this act. (L. 1939, ch. 539, Sec. 8, p. 1182.)

Sec. 99-1409. Fine for Violating Act. Any person, firm, corporation, society or association violating any provision of this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not exceeding \$25. (L. 1939, ch. 539, Sec. 9, p. 1182.)

Sec. 99-1410. Use of Funds Collected Under Former Acts. Funds previously collected by the authority of chapter 57, Oregon Laws, 1935, special session; chapter 336, Oregon Laws, 1937, and chapter 383, Oregon Laws, 1937, and now deposited in the funds of the state treasurer to the credit of the state board of health shall be used in the enforcement of this act. (L. 1939, ch. 539, Sec. 11, p. 1182.)

CAMPERS, CAMP CARS, TRAILER HOUSES OR HOMES

Sec. 99-1501. Definitions. A camp car or trailer house or trailer home is defined as any unit for living or sleeping purposes which is equipped with wheels or similar devices and used for transporting said unit from place to place whether by motor power or other means. (L. 1937, ch. 285, Sec. 1, p. 429.)

Sec. 99-1502. Camping on Highways Prohibited: Sanitary Conveniences as Affecting Right to Camp. It shall be unlawful for any person to camp or to cause any camp car or trailer house or trailer home on any of the arterial highways of this state or to cause the same to be camped at any place where sanitary conveniences are not provided for the safe disposal of excreta or other wastes, provided, however, that in isolated districts where sanitary conveniences are not available, such camping is lawful provided all excreta and wastes are buried at least one foot below the surface of the ground. (L. 1937, ch. 285, Sec. 2, p. 429.)

Sec. 99-1503. Kitchen or Toilet Facilities: Regulations. It shall be unlawful for any person to cause a camp car or trailer house or trailer home to be operated on the highways of this state with kitchen or toilet facilities unless he shall make provisions whereby waste material can be held in water tight and sanitary containers of such types that have been approved by the state board of health, or to empty such container or containers except in a public sewerage system, septic tank or cesspool of types that have been approved by the state board of health, provided, however, that in isolated districts where such facilities are not available it shall be lawful to empty such container or containers in the ground, provided all excreta and wastes are covered at least one foot below the surface of the ground. (L. 1937, ch. 285, Sec. 3, p. 429.)

Sec. 99-1504. Punishment of Violator. If any person shall violate any provision of this act he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$100 or by an imprisonment not exceeding three months or by both such fine and imprisonment. (L. 1937, ch. 285, Sec. 4, p. 429.)

PLUMBING

ARTICLE 1

PLUMBING CODE

Sec. 99-1601. Application of Code. Plumbing is the art of installing, altering or repairing in buildings the pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage; the storm-water drainage, with their devices, appurtenances and connections, all within or adjacent to or serving the building. All installations of plumbing and drainage in buildings and structures in the state of Oregon, and all potable water supply, drainage, waste, and sewage disposal installations, within or serving such buildings or structures, except in temporary construction camps, and except as hereinafter set out, shall be made in accordance with the requirements of this act. (L. 1925, ch. 272, Sec. 1; O. C. 1930, Sec. 59-1901; Am. L. 1947, ch. 331, Sec. 1.)

Sec. 99-1602. Certificate of Registration of Plumbers: Application: Fee. Every person, firm and corporation hereafter engaged in the business of furnishing labor and material, or labor only, to alter, renovate or install plumbing in or serving buildings or structures in the state of Oregon shall, on or before the first day of July of each year, file with the state board of health an application in writing for registration, which shall state the name and address of the applicant, and in case of firms the names and postoffice addresses of the individuals composing the firm, and in case of corporations naming the managing officials thereof, and shall state the location of the business of the applicant and the name under which the business is to be conducted. No registration hereunder shall be made or entered until the applicant therefor has paid a registration fee of twenty-five dollars (\$25) to the state board of health which shall issue to such person, firm or corporation a certificate of registration. The state board of health shall have the power to revoke

any certificate of registration if the same is obtained through error or fraud or if the holder thereof shall fail to comply with the provisions of this act. Whenever, in the judgment of the state board of health, any applicant to whom a certificate has been issued has failed to comply with the provisions of this act or the rules and regulations of said board, it shall revoke such certificate; provided, that no application for such a certificate shall be denied, nor shall any such certificate be revoked, by said board, without first giving the holder thereof full opportunity to be heard upon such denial or revocation. Notice of said hearing shall be given in writing by receipted registered mail or by personal service. Such notice shall be given at least 10 days before the date of hearing and shall state the place of hearing, the date and hour of hearing, and grounds of cancellation or revocation. (L. 1925, ch. 272, Sec. 2; L. 1935, ch. 123, Sec. 1; O. C. 1930, Sec. 59-1902; Am. L. 1947, ch. 331, Sec. 2.)

Sec. 99-1603. Expiration Date. All certificates of registration shall bear the date of issue and shall expire on the first day of July next following the date of issue; provided, that all certificates of registration issued prior to the first day of July, 1925, shall expire on the first day of July, 1926. (L. 1925, ch. 272, Sec. 3, p. 486; O. C. 1930, Sec. 59-1903.)

Sec. 99-1604. Enforcement of Code: Disposition of Fees: Payment of Expenses. The state board of health of the state of Oregon hereby is required to see that the provisions of this act are enforced. All fees in this act provided for shall be paid over to the state board of health, which shall pay the same into the state treasury monthly and they shall be by the state treasurer placed to the credit of the general fund to an account to be known as the plumbers' code account, and payment or payments made by the state board of health in enforcing the provisions of this act and the provisions of section 99-1610 to section 99-1623, inclusive, O.C.L.A., as amended, shall constitute and be considered as, and hereby are made, an appropriation of such sums or amounts from the general fund for the purpose of carrying out the provisions of this act and the provisions of section 99-1610 to section 99-1623, inclusive, O.C.L.A., as amended. All necessary expenses of the state board of health incurred in carrying out the provisions of this act and the provisions of section 99-1610 to section 99-1623, inclusive, O.C.L.A., as amended, shall be audited by the secretary of state and paid from the funds herein provided in the same manner as other claims against

the state are paid, after due approval thereof by the state board of health. On the effective date of this act any moneys collected and appropriated under the provisions of this act and remaining unexpended shall thereupon be added to and made a part of the "plumbers' code account" heretofore mentioned. (L. 1925, ch. 272, Sec. 4; O. C. 1930, Sec. 59-1904; L. 1935, ch. 123, Sec. 2; Am. L. 1947, ch. 331, Sec. 3.)

Sec. 99-1605. Allegation and Proof Required in Suit by Plumber. No person, firm or corporation carrying on, conducting or transacting business as aforesaid shall, after this act takes effect, be entitled to maintain any suit or action in any of the courts of this state without alleging and proving that such person or persons have been duly registered at the time of performing such work, as provided in section 99-1602. (L. 1925, ch. 272, Sec. 5, p. 486; O.C. 1930, Sec. 59-1905.)

Sec. 99-1606. Fixture Installation Regulations. All waste water and sewage from plumbing fixtures and appliances connected to the drainage system and/or water supply installed in any building or structure contemplated by this act shall be conveyed and discharged from the trap of such fixture or appliance through either galvanized wrought-iron pipe, cast-iron pipe, brass or lead pipe to a point at least five feet outside the line of such building or structure, and shall be carried or discharged from such pipe to a sewer, cesspool or ultimate point of discharge through either a continuation of such pipe, or through terra cotta, cement sewer pipe, bituminized fiber pipe or other suitable conveyor. Where galvanized wrought-iron pipe is used for waste pipe, the fittings used in conjunction therewith shall be cast-iron, recessed screw fittings. All fittings in horizontal soil and waste lines shall be long pattern soil or waste fittings. All soil, waste and vent pipe installed underground within five feet of the building, or in buildings four stories or more in height, shall be cast-iron pipe. Whenever acids or corrosive industrial wastes are discharged into the drain lines, the wastes and drain lines shall be constructed of a material approved by the state board of health. The state board of health may approve the use of pipe and fittings constructed of material other than that specified in this code for soil, waste, vent and sewers; provided the manufacturer can furnish test reports, samples and whatever other data may be required to establish to the satisfaction of the state board of health the acceptability of such material. All fixtures shall

be connected with soil, waste and vent pipes of not less than the following minimum sizes:

Wash basins, one and one-fourth inches; sinks, bath tubs and laundry trays, one and one-half inches; water closets, four inches. All fixtures shall be connected with soil, waste and vent pipes of such size and slope as to afford adequate capacity for the maximum load that may be potentially possible at any given time.

Vent pipes shall be of cast-iron pipe, lead or brass pipe, or galvanized wrought-iron or steel pipe. Vent fittings shall be of cast-iron, threaded brass fittings or galvanized malleable iron fittings. Each fixture shall have a vent not less in size than size of trap of such fixture, excepting water closets, which shall have vent of not less than two inches; provided, that one four-inch stack shall be extended through the roof. Whenever it is impossible to vent a plumbing fixture in accordance with the plumbing code, the fixture shall be installed in some other manner which meets the approval of the state board of health. Each building drain carrying the discharge from one or more water closets and connected to a separate sewer branch, cesspool or septic tank shall have at least one four-inch branch extending through and above the roof. Soil, waste and vent lines shall be sized in accordance with the tables set forth in the regulations of the state board of health. All vents shall extend to and at least one foot above the roof of the building. Vents shall terminate at least 12 feet away from or two feet above any air intake, door or window and at least 12 feet from another building or property line, lot line on street or alley excepted. Each fixture shall be separately and efficiently trapped. All fixtures shall be supplied with fresh water sufficient to flush the same. Floor drains and sumps shall be supplied with water automatically. The water-service pipe to any building shall be of sufficient size to permit a continuous and ample flow of water on all floors at a given time. In no case shall the service pipe from the street main or other source of supply to the hot water branch tee in the building be less than three-quarter inch. It shall be so graded in size as to make for equal distribution of the water to the respective risers and branches in accordance with the need of the fixture or flushing medium employed. All joints of bell and spigot cast-iron soil pipe shall be made with oakum and molten lead properly calked so as to be gas and water tight. Threaded cast-iron pipe used in the plumbing system shall be in accordance with fed-

eral specifications for threaded cast-iron pipe. All waste water and sewage from plumbing fixtures shall be discharged into a sewer system, septic tank disposal system or cesspool. No septic tank, disposal field or cesspool shall be constructed within 50 feet of any well. Septic tanks, together with drainage trenches, drainage tile or leaching cesspools for the disposal of septic tank effluent shall be constructed and installed in accordance with the rules and regulations of the state board of health. No plumbing fixture, device or equipment shall be installed, maintained or offered for sale which will provide a cross-connection between the distributing system of water for drinking and domestic purposes and any other water supply, or a drainage system, soil or waste pipe so as to permit or make possible the backflow of contaminated water, sewage or waste into the water supply system. No flush valve, vacuum breaker or syphon preventer shall be offered for sale or installed in Oregon that has not been approved by the state board of health. The use or installation of water-operated sump pumps or sewage ejectors, if connected to the potable water supply, is prohibited. No pan, plunger, offset washout, washout, long hopper, frost proof or other water closets having invisible seals or unventilated spaces, or walls not thoroughly washed at each flushing, either new or used, shall be installed or sold for use in any building in Oregon. No plumbing fixture, appurtenance or device, the installation of which would be in violation of this code and the regulations of the state board of health, shall be sold, offered for sale or installed in Oregon. (L. 1925, ch. 272, Sec. 7; O. C. 1930, Sec. 59-1906; Am. L. 1947, ch. 331, Sec. 4.)

Sec. 99-1607. Municipal Regulations. Nothing in this act shall be construed to prevent any incorporated city or town from enacting and enforcing any ordinance for the regulation of the business of master plumbers in such cities and towns nor to prevent such cities and towns from enacting and enforcing any ordinance or ordinances or building code which shall prescribe the manner in which plumbing and drainage work shall be installed in such cities and towns; provided, that such ordinance or code shall not prescribe or fix a lower standard of installation of plumbing and drainage work than by this act is prescribed. (L. 1925, ch. 272, Sec. 8, p. 486; O. C. 1930, Sec. 59-1907.)

Sec. 99-1608. Exceptions: Persons Not Engaged in Work for Hire: Plumbing Work by Employees.

Nothing in this act shall be deemed to prevent a person or persons, firm or corporation from engaging in plumbing work when not so engaged for hire, or from utilizing the services of regular employes in doing any plumbing work for the benefit of property which may be owned, leased or operated by such employer. (L. 1925, ch. 272; Sec. 9; O. C. 1930, Sec. 59-1908; Am. L. 1947, ch. 331, Sec. 6.)

Sec. 99-1609. Punishment of Violator. Any person who, or firm or corporation which engages in or follows the business or occupation of, or advertises or holds himself or itself out as or acts temporarily or otherwise as registered to conduct a plumbing business, or any member or employe of a firm, partnership or corporation who engages in the layout or superintending of plumbing installations without first having secured the required certificate of registration so to do, or who otherwise violates any of the provisions of this chapter or the lawful rules and regulations made by the state board of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer, pursuant to the authority granted in this act, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100), or by imprisonment of not more than 60 days, or by both such fine and imprisonment. (Am. L. 1941, ch. 294, Sec. 2.)

Sec. 99-1609.1. Provisions of Act Severable. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this act, it being the intent of this legislative assembly to enact the remainder of this act, notwithstanding such part so declared unconstitutional should or may be so declared. (L. 1941, ch. 294, Sec. 3.)

ARTICLE 2

CERTIFICATES OF COMPETENCY AND PERMITS

Sec. 99-1610. Authority of State Board of Health to Issue Certificates and Permits. The state board

of health hereby is authorized and empowered to grant and issue certificates of competency and permits to persons desiring or intending to engage in the trade or calling of journeymen plumber, in the manner and upon the terms and conditions hereinafter provided. (L. 1935, ch. 243, Sec. 1, p. 366; O. C. 1935 Supp., Sec. 59-2401.)

Sec. 99-1611. Examining and Certifying Journeymen: Authority to Make Rules and Regulations: Examining Board of Plumbers: Duties: Term of Office: Filling Vacancies in Board. The state board of health hereby is authorized, empowered and directed to prescribe, amend and enforce rules and regulations consistent with this act for the examination and certifying of journeymen plumbers, and said board shall for this purpose, within 60 days after this act becomes a law, appoint with the power of removal, three plumbing examiners, of which one shall be a journeyman plumber, one a person registered to conduct a plumbing business, one a member or employe of the state board of health to be known as "the examining board of plumbers" whose duties shall be to examine as to their fitness and qualifications all persons applying to the state board of health for certificates to engage in the business, trade or calling of a journeyman plumber, and to certify promptly the results thereof to the said board of health. The term of office of the said first two appointees in the order named shall be one and two years, respectively, and thereafter their terms shall be for four years each. Said state board of health shall have the power by appointment to fill vacancies in said board. (L. 1935, ch. 243, Sec. 2; O. C. 1935 Supp., Sec. 59-2402; Am. L. 1947, ch. 526, Sec. 1.)

Sec. 99-1612. Compensation of Members of Board of Examiners. Each member of said board of examiners, except a paid officer, member or employee of the state board of health, shall receive compensation of not less than the prevailing rate for journeymen plumbers and expenses for each day in which such member is actually engaged in attendance upon the meetings of the board, to be audited and paid out of the general fund of the state treasury, and charged against the appropriation account of the state board of health, set aside for carrying into effect the provisions of this act. (L. 1935, ch. 243, Sec. 3, p. 366; O. C. 1935 Supp., Sec. 59-2403.)

Sec. 99-1613. Authorizing One Member of Board to Conduct Examination. The state board of health

may, if it deems it necessary so to do, authorize and empower one member only of said examining board of plumbers to hold and conduct a certain specific examination, and report the result thereof as herein provided for. (L. 1935, ch. 243, Sec. 4, p. 367; O. C. 1935 Supp., Sec. 59-2404.)

Sec. 99-1614. Issuance of Certificate of Competency Without Examination Prohibited. The state board of health shall issue certificate of competency to such persons as have by said examination shown themselves fit, competent and qualified to engage in the business, trade or calling of a journeyman plumber. (L. 1935, ch. 243, Sec. 5, p. 367; O. C. 1935 Supp., Sec. 59-2405.)

Sec. 99-1615. Application: Contents: Fees: Registration of and Permit to Apprentices. All journeymen plumbers working with tools or actually performing work of installing, altering, repairing and renovating plumbing, drainage or plumbing ventilation in the state of Oregon, shall, within 60 days after this act becomes a law and on or before the first day of July of each year thereafter, make application to the state board of health for permission so to do on a form furnished by the state board of health. Such form shall state applicant's name in full, his address and experience, and no certificate of competency hereunder shall be issued to any journeyman until applicant therefor has complied with the rules and requirements laid down by the state board of health and has paid to the state board of health a certificate fee of ten dollars (\$10). Application for examination for journeyman plumber's certificate of competency shall be accompanied by an examination fee of ten dollars (\$10) and a permit fee of one dollar (\$1). If the applicant passes examination the one dollar (\$1) permit fee shall apply on certificate fee; provided, however, that journeymen plumbers actually engaged in the business as such at the time this act goes into effect may, within 60 days thereafter, upon presentation of satisfactory evidence of qualifications, and upon the payment of the certificate fee herein required, procure a certificate of competency without examination. Permits are automatically revoked if applicant fails to appear when notified unless he can furnish a reasonable excuse or when notified of failure to pass examination.

Every apprentice must register with the state board of health, giving the length of time he has served and with whom he has been employed. The

state board of health shall issue to such apprentice a permit to work at the trade of plumbing so long as he may be working under the supervision of a certified journeyman plumber. (L. 1935, ch. 243, Sec. 7; O. C. 1935 Supp., Sec. 59-2407; Am. L. 1947, ch. 526, Sec. 2.)

Sec. 99-1616. Expiration Date of Certificates. All certificates of competency shall bear the date of issue and shall expire on the first day of July next following the date of issue; provided that all certificates of competency issued prior to the first day of July, 1935, shall expire on the first day of July, 1936. (L. 1935, ch. 243, Sec. 8, p. 368; O. C. 1935 Supp., Sec. 59-2408.)

Sec. 99-1617. Revocation of Certificates: Procedure: Application for New Certificate After Revocation. The state board of health shall have power to revoke any journeyman plumber's certificate of competency if the same was obtained through error or fraud, or if the recipient thereof is shown to be grossly incompetent or has a second time wilfully violated any of the rules or regulations prescribed by said board; provided, that before any certificate of competency shall be revoked, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said board, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than ten days after the service thereof. The state board of health shall have power to appoint, by an order in writing, its secretary or any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses, and the decision of the state board of health shall be based upon its examination of the testimony taken and the records produced. Any person whose certificate of competency has been revoked may, after the expiration of one year from the date of such revocation, but not before, apply for a new certificate of competency. (L. 1935, ch. 243, Sec. 6, p. 367; O. C. 1935 Supp., Sec. 59-2406.)

Sec. 99-1618. Disposition of Moneys Received: "Plumbers' Code Account": Appropriation: Payment of Claims. All receipts from fees, charges, costs, expenses and fines provided for in this act shall be collected by the state board of health, who shall pay the same into the state treasury monthly and shall

be by the state treasurer placed to the credit of the general fund to an account to be known as the "plumbers' code account." Such account shall be available for the payment of expenses incurred in carrying out the provisions of this act and for the payment of expenses incurred in carrying out the provisions of section 99-1601 to section 99-1609.1, inclusive, O.C.L.A., as amended. All expenditures made from the plumbers' code account shall be made in the manner provided by section 99-1604, O.C.L.A., as amended. On the effective date of this act all moneys theretofore received and remaining unexpended in the "plumbers' code account" shall be made available for the purposes of this act. (L. 1935, ch. 243, Sec. 9; O. C. 1935 Supp. Sec. 59-2409; Am. L. 1947, ch. 526, Sec. 3.)

Sec. 99-1619. Punishment of Violator: Separate Offenses: Jurisdiction of Justices of the Peace. Any person who shall engage in the trade, business or calling of a journeyman plumber, without a permit or certificate of competency, as provided for by this act, or who shall violate any of the provisions of this act, or the rules and regulations of the state board of health herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the state board of health, within the prescribed time, or who shall fail, neglect or refuse to obey any lawful order given or made by the state board of health, shall be guilty of a misdemeanor and shall be subject to a fine of not less than ten dollars (\$10) or more than fifty dollars (\$50), or to imprisonment in the county jail not exceeding 30 days, for each and every violation thereof. Each day of such violation shall constitute a separate offense. The justices of the peace in the several counties of the state hereby are given jurisdiction in the premises. (L. 1935, ch. 243, Sec. 10, p. 368; O. C. 1935 Supp., Sec. 59-2410.)

Sec. 99-1620. Employment of Certified Journeymen Plumber and Indentured Apprentice Plumber Required. Any person, firm or corporation registered to conduct a plumbing business who shall employ any person to work as a journeyman plumber who does not hold a valid journeyman plumber's certificate of competency or who employs as an apprentice plumber a person not indentured by the state apprenticeship council, or who shall employ an apprentice on any plumbing work, representing him to be a journeyman plumber, or who shall charge

for the services of such apprentice a journeyman plumber's wage, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than twenty-five dollars (\$25) or by imprisonment in the county jail not more than 30 days. Each day of such violation shall constitute a separate offense. (L. 1935, ch. 243, Sec. 10; O. C. 1935 Supp. Sec. 59-2410; Am. L. 1947, ch. 526, Sec. 4.)

Sec. 99-1621. Exception of Work on Own Premises or in Communities of Less Than 250 Population. Nothing in this act shall be deemed to prevent a person from doing his own work in his own building, on his own premises; provided, he shall comply with all the rules and regulations of the state board of health and the state plumbing code; provided further, that in communities having a population of 250 or less any person may make repairs or installations under laws and regulations applicable thereto. (L. 1935, ch. 243, Sec. 12, p. 369; O. C. 1935 Supp., Sec. 59-2412.)

Sec. 99-1622. Municipal Regulations and Imposition of License Fees. Nothing contained in this act shall prevent any incorporated city or town from enacting ordinances regulating the business of journeymen plumbers and imposing a license fee for regulation or revenue thereon if permitted by charter. (L. 1935, ch. 243, Sec. 13, p. 369; O. C. 1935 Supp., Sec. 59-2413.)

Sec. 99-1623. Definitions. For the purpose of this act the words and phrases used in this act and in this section set forth are defined to have the following meaning, to wit:

Journeyman Plumber. Journeyman plumber shall mean any person holding a valid journeyman plumber's certificate of competency issued by the state board of health and who performs the actual labor of installing, altering or repairing plumbing with his own hands.

Registration to Conduct a Plumbing Business. The holder of a certificate of registration to conduct a plumbing business is one who has made application to the state board of health and paid a registration fee to engage in the business of furnishing labor and material, or labor only, to install, alter and repair plumbing. This registration does not entitle the holder to work as a journeyman plumber.

Apprentice Plumber. Apprentice plumber shall mean any person who is indentured by the state apprenticeship council, registered with the state board of health and who is employed by the holder of a registration to conduct a plumbing business for the purpose of assisting the journeyman plumber and learning the plumbing trade. (L. 1935, ch. 243, Sec. 14; Am. L. 1947, ch. 526, Sec. 5.)

Provisions of Act Severable. That the various sections, subsections, subdivisions, sentences, clauses and phrases of this act shall be deemed severable and independent to the end that if any of them shall be held void or unconstitutional by any court of competent jurisdiction, then all other sections, subsections, subdivisions, sentences, clauses and phrases of this act, which are not expressly so held to be void or unconstitutional, shall continue in full force and effect and be deemed operative and valid. (L. 1935, ch. 243, Sec. 15.)

ARTICLE 1

PUBLIC SWIMMING POOLS AND BATHHOUSES

Sec. 99-1701. Authority of State Board of Health. The state board of health shall have supervision over the sanitation, healthfulness, cleanliness and safety of public swimming pools and bathhouses and is hereby empowered to make and enforce such rules and regulations pertaining thereto as it shall deem necessary to carry out the provisions of this act. (L. 1931, ch. 364, Sec. 1, p. 679; O. C. 1935 Supp., Sec. 59-2301.)

Sec. 99-1702. Permit to Construct or Operate: Application: Investigation: Grant or Denial of Permit. It shall be unlawful for any person, firm, corporation, institution or municipality to construct or to operate or to continue to operate any public swimming pool, bathhouse, or any structure intended to be used for public swimming or bathing purposes within the state of Oregon without a permit so to do from the state board of health. Any person, firm,

corporation, institution or municipality desiring to construct or to operate and maintain any public swimming pool, bathhouse or structures intended to be used for swimming or bathing purposes within the state of Oregon shall file application for permission so to do with the state board of health with description of the source or sources of water supply, amount and quality of water available and intended to be used, method and manner of water purification, treatment disinfection, heating, regulating and cleaning; life-saving apparatus, and measures to insure safety of bathers; measures to insure personal cleanliness of bathers; methods and manner of washing, disinfecting, drying and storing bathing apparel and towels, and all other information and statistics that may be required by the state board of health, whereupon the state board of health shall cause an investigation to be made of the proposed or existing pool and if it shall determine as a fact that the same is or may reasonably be expected to become unclean or unsanitary or may constitute a menace to public health, it shall deny the application for permit; if it shall determine as a fact that the same is or may reasonably be expected to be conducted continuously in a clean and sanitary manner and will not constitute a menace to public health, it shall grant the application for permit under such restriction as it shall deem proper. (L. 1931, ch. 364, Sec. 2, p. 679; O. C. 1935 Supp., Sec. 59-2302.)

Sec. 99-1703. Inspection of Premises: Reports of Inspection. For the purposes of this act the state board of health shall at any and all reasonable times have full power and authority to, and shall be permitted to enter upon any and all parts of the premises of such bathing and swimming places to make examination and investigation to determine the sanitary condition of such places and whether the provisions of this act or the rules and regulations of the state board of health pertaining thereto are being violated. The state board of health may from time to time at its discretion publish the reports of such inspection in its monthly bulletin. (L. 1931, ch. 364, Sec. 3, p. 680; O. C. 1935 Supp., Sec. 59-2303.)

Sec. 99-1704. Suspension or Revocation of Permit. Any permit granted by the state board of health as provided in this act shall be revocable or subject to suspension at any time by formal action of the state board of health if it shall determine as a fact that the swimming or bathing place or places are being

conducted in a manner unsanitary, unclean or dangerous to public health. (L. 1931, ch. 364, Sec. 4, p. 680; O. C. 1935 Supp., Sec. 59-2304.)

Sec. 99-1705. Abatement of or Injunction Against Unlawful Pool. Any swimming pool constructed, operated or maintained contrary to the provisions of this act are hereby declared to be public nuisances, dangerous to health. Such nuisances may be abated or enjoined in an action brought by the local or state board of health or they may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health. (L. 1931, ch. 364, Sec. 5, p. 680; O. C. 1935 Supp., Sec. 59-2305.)

Sec. 99-1706. Punishment of Violator: Separate Offenses. Any person, firm or corporation, whether as principal or agent, employer or employe, who violates any of the provisions of this act shall be guilty of a misdemeanor, and each day that conditions or actions, in violation of this act, shall continue, shall be deemed to be a separate and distinct offense, and for each offense, upon conviction, he shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (L. 1931, ch. 364, Sec. 6, p. 680; O. C. 1935 Supp., Sec. 59-2306.)

ARTICLE 2

BATHING RESORTS OUTSIDE INCORPORATED CITIES

Sec. 99-1707. License: Fee. It shall be unlawful for any person, firm or corporation to maintain any public bathing resort in this state outside of the limits of an incorporated city, where admission is charged or a fee exacted for bathing or swimming, unless such resort first shall secure a license therefor from the county court or board of county commissioners in the county in which such resort is operated, fee for which license shall be \$3 per annum. (Am. L. 1943, ch. 191, Sec. 1.)

Sec. 99-1708. Safety and First-Aid Equipment and Lifeguards. Before granting any such license the county court or board of county commissioners shall require satisfactory evidence that such resort maintains a reasonably safe place for swimming and is equipped with safety and first-aid equipment conveniently located to the bathing area which said safety and first-aid equipment shall be substantially equivalent to that contained in a Red Cross twenty-four unit standard first-aid kit; that ring buoys with rope attached are mounted in conspicuous places in such area, with a sign thereon "For Emergency Use Only"; that grappling irons or hooks, with sufficient rope, are available at such resort; and that the county court or board of county commissioners may, before the granting of such license, require that during bathing hours or hours in which bathing is permitted, a duly qualified lifeguard or swimming instructor shall be in attendance, and that said court or board may require that a rowboat not less than twelve feet in length, capable of holding not less than three persons, be near at hand; provided, that indoor or outdoor artificial swimming pools and tanks shall not be required to be equipped with such rowboat. (Am. L. 1943, ch. 191, Sec. 2.)

Sec. 99-1709. Inspection. It hereby is made the duty of the county sheriff to make inspections of such resort and the equipment thereof at least once a year. (Am. L. 1943, ch. 191, Sec. 3.)

Sec. 99-1710. Punishment of Violator. Any person, firm or corporation violating any of the provisions of this act, upon conviction thereof, shall be punished by a fine of not to exceed \$100. (L. 1939, ch. 306, Sec. 4, p. 583.)

LABORATORIES

Sec. 99-1801. Registration. Every county, municipality, institution, person, firm or corporation operating or maintaining a laboratory in which human or animal body fluids, secretions or excretions are examined for the determination of the presence or absence of an infectious agent in the material ex-

amined or in the person or animal from which it was secured, shall register annually with the state board of health giving the name of such laboratory, its location and the name of the person or persons owning or operating the same. (L. 1935, ch. 322, Sec. 1, p. 506; O. C. 1935 Supp., S. 59-2501.)

Sec. 99-1802. Advisory Committee: Appointment: Qualifications: Term of Office: Duties. The state medical society shall appoint an advisory committee of four members, one of whom shall be a layman laboratory operator, two of whom shall be members of the state medical society and laboratory operators, and one of whom shall be a member of the state board of health. The members of said committee shall each be appointed for a term of two years, until their successors are appointed, and shall serve without compensation. Said advisory committee shall advise the state board of health concerning what regulations of such laboratories are necessary for the protection of the public from the spread of communicable diseases resulting from the operation of such laboratories. (L. 1935, ch. 322, Sec. 2, p. 507; O. C. 1935 Supp., Sec. 59-2502.)

Sec. 99-1803. Certificates of Approval: Prior Inspection. The state board of health shall issue certificates of approval to laboratories which after inspection are found to conform to the standards required by the state board of health. (L. 1935, ch. 322, Sec. 3, p. 507; O. C. 1935 Supp., Sec. 59-2503.)

Sec. 99-1804. Rules and Regulations. Acting upon the advice of the advisory committee, the state board of health shall be empowered and directed to make such rules and regulations as shall be necessary for carrying out the provisions of this act. All such rules and regulations so made shall be in force and binding on persons, firms, or corporations operating and maintaining laboratories for the examination of body fluids for the determination of an infectious agent. (L. 1935, ch. 322, Sec. 4, p. 507; O. C. 1935 Supp., Sec. 59-2504.)

Sec. 99-1805. Findings as to Case Contact or Carrier of Communicable Disease. When the control or release of a case contact or carrier of a communicable disease is dependent on laboratory findings, the health officer may require such findings to be obtained by a laboratory approved by the state board of health. (L. 1935, ch. 322, Sec. 5, p. 507; O. C. 1935 Supp., Sec. 59-2505.)

Sec. 99-1806. Exemption: Physicians Doing Own Laboratory Work. This act shall not apply to physicians doing their own laboratory work as an incident of their individual practice and not as a separate enterprise; provided, however, that when such laboratory work is conducted for others it shall be subject to the provisions of this act. (L. 1935, ch. 322, Sec. 6, p. 507; O. C. 1935 Supp., Sec. 59-2506.)

Sec. 99-1807. Appeal From Refusal to Grant Approval to Laboratory. In any case in which the state board of health shall refuse to grant approval to a laboratory, as provided in this act, the county, municipality, institution, person, firm or corporation maintaining such laboratory shall have the right to appeal from the decision so refusing approval within 30 days after the date of refusal by the board. Such appeal shall be an equitable action before the circuit court in and for the county in which was held the last general meeting of the board, prior to the refusal of approval. (L. 1935, ch. 322, Sec. 7, p. 507; O. C. 1935 Supp., Sec. 59-2507.)

COOPERATION WITH DEPARTMENT OF AGRICULTURE

Sec. 99-2258a. Relationship Between Production, Etc., of Food and Public Health Recognized: Cooperation Between Board of Health and Department of Agriculture Ordered: Surveys, Etc., to Be Made by Board of Health: Notice of Contemplated Survey: Contents: Exceptions: Report: Filing: Time: Contents: Action by Department of Agriculture. In order to more effectively utilize the agencies of the state in the public interest and without unnecessary duplication and expense, the relationship between the production, processing and distribution of food and the public health hereby is recognized. Therefore there shall be the fullest cooperation between the state board of health and the state department of agriculture. In addition to any state board of health survey, investigation or inquiry now authorized by law, which involves the production, processing or distribution of agricultural products, the state board of health shall make such further surveys, investigations or inquiries as may be requested by the director of agriculture for the purpose of showing the manner in which the production, processing or

distribution of agricultural products may affect the public health. In order that maximum protection to the public health may result from the activities of the state board of health and the department of agriculture, it hereby is required that the state board of health shall notify the director of agriculture in writing of any contemplated survey which affects or may affect agricultural products which are under the regulation of the department of agriculture. Such notice shall cover in detail the scope of the survey under consideration, and the reasons therefor; provided, that this section shall not be construed as prohibiting the state board of health from taking immediate action in any case where such action seems necessary in the interests of public health; and provided further, that such written notice shall not be required in the case of a survey instituted on the request of the director of agriculture.

Not less than 30 days after the completion of any such survey, the state board of health shall file with the director of agriculture a certified copy of its report, which report shall include the findings of the state board of health with respect to all matters covered thereby. Whenever the findings in the report of any survey, investigation or inquiry made by the state board of health show any hazard to public health existing incident to the production, processing or distribution of any agricultural commodity, the department of agriculture shall take such action as may be necessary and within the scope of its resources to remove such hazards. (L. 1945, ch. 328, Sec. 1.)

Sec. 99-2258b. Duty of Board of Health to Administer and Enforce Regulatory Legislation Applying to Sanitation of Food Establishments. It hereby is declared to be the public policy of the state of Oregon that the duty of administration and enforcement of all regulatory legislation now enacted or which may hereafter be enacted applying to the sanitation of establishments where food or drink is consumed on the premises where sold, or to sanitary practices used in such establishments, be performed by the state board of health. (L. 1945, ch. 328, Sec. 2.)

Sec. 99-2258c. Duty of Department of Agriculture to Administer and Enforce Legislation Applying to Production, Etc., of Food Products of Agricultural Origin. It hereby is declared to be the public policy of the state of Oregon that the duty of administration and enforcement of all regulatory legislation now enacted or which hereafter may be enacted and

applying to the production, processing and distribution of all food products or commodities of agricultural origin shall, in addition to such further legislation as shall specifically name the department of agriculture as the administering agency, be performed by the department of agriculture to the exclusion of any other department not so specifically named. (L. 1945, ch. 328, Sec. 3; Sec. 32-2201 and 32-2202; Sec. 48-109. L. 1947, ch. 244.)

Sec. 32-2201. Feeding Swine: Definitions. For the purpose of this act the following terms are defined as follows: "Person" shall include any person, firm, corporation or association. "Department" shall be the department of agriculture of the state of Oregon. "Garbage" shall include any and all refuse accumulations from animal or vegetable matter which have been intended for human food, except bakery products or vegetable matter which has not been taken from a restaurant, hotel, home or other eating place. "Offal" shall be the parts of animal carcasses that are used or may be used in feeding swine. (L. 1941, ch. 333, Secs. 1, 13, repealing original and adding new section.)

Sec. 32-2202. Necessity of License: Expiration of License. Before any person shall engage, or continue in the business of feeding garbage or offal to swine, such person shall procure from the department a license so to do. All such licenses shall expire on the thirtieth day of June next succeeding their date of issuance. (L. 1941, ch. 333, Secs. 2, 13, repealing original and adding new section.)

Sec. 48-109. Prescription of Sanitary Requirements: Effect of Violation: Amendment and Repeal of Regulations. The department shall prescribe reasonable sanitation requirements, not inconsistent with existing laws or regulations duly issued thereunder, governing the storing, handling, mixing, preparation, processing, manufacture, transportation and distribution of bakery products, and the design, construction, installation, maintenance, use, care and cleaning of utensils and equipment used therein or in connection therewith. Upon promulgation of any such regulation, any violation thereof in operating or maintaining any bakery or in storing, handling, preparing, processing, manufacturing, transporting or distributing any bakery product shall be a violation of this act. Any such regulation may be amended, altered or repealed by the department. (L. 1939, ch. 400, Sec. 9, p. 813.)

REFRIGERATED LOCKER PLANTS

Regulating and licensing the operation of refrigerated locker plants; fixing penalties and providing a saving clause.

Section 1. Except as the context may require a different meaning, terms used in this act are deemed and understood to have the following definitions:

1. "Refrigerated locker plant" or "locker plant" means any place, premises or establishment in which separate and individual compartments for the frozen food storage and preservation of food for human consumption are offered to the public upon a rental or other basis providing compensation to the person offering such services.

2. "Refrigerated locker" or "locker" means a separate, individual compartment in a refrigerated locker plant, wherein food may be placed and kept in frozen food storage.

3. "Department" means the state department of agriculture of the state of Oregon.

4. "Person" includes any individual, partnership, corporation, association, cooperative association, county, municipality or other entity engaging in the business of operating or owning a refrigerated locker plant or offering the services thereof as above defined.

5. "Clean," "healthful" and "sanitary" mean free of flies and other insects, rodents, dust, dirt, decomposed material, mold, odors, or any condition which would in any way contaminate the food products stored.

Section 2. No person shall engage within this state in the business of owning or operating any refrigerated locker plant or offering the services of such plant without having obtained from the department a license for each such place of business. Application for such license shall be made to the department in writing containing such information and in such form as may be prescribed by said department. Such license shall not be transferable and shall not authorize the conduct of any refrigerated locker business at any address other than that stated in the application. The licensee shall at all times maintain said license conspicuously displayed in the licensed plant.

Licenses shall be issued for the fiscal year commencing on July 1 and ending on June 30 next fol-

lowing. No such license, however, shall be required prior to July 1, 1947.

Section 3. The license fee for a refrigerated locker plant shall be as follows:

1. For a plant having 100 lockers or less, an annual fee of ten dollars (\$10).

2. For a plant having over 100 but not over 500 lockers, an annual fee of fifteen dollars (\$15).

3. For a plant having over 500 but not over 1500 lockers, an annual fee of twenty dollars (\$20).

4. For a plant having over 1500 lockers, an annual fee of twenty-five dollars (\$25).

All fees collected in conformance with this act shall be placed in the department of agriculture account in the general fund of the state of Oregon for the use of said department in enforcing this act.

Section 4. The department, acting through the director of agriculture or the division chief of such department in charge of the inspection of refrigerated locker plants, may refuse, revoke or suspend any license hereunder issued, upon finding, after a hearing had in conformance with chapter 1, title 29, O. C. L. A., that:

1. The licensee has violated any provision of this act or any other law of the state of Oregon relating to the operation of refrigerated locker plants or frozen food storage plants or the handling or sale of any food for human consumption or has violated any rule or regulation promulgated by the department.

2. The building, room, basement or cellar occupied by such refrigerated locker plant is not properly lighted, drained, plumbed, ventilated and maintained in a clean, healthful and sanitary condition.

3. The floors, walls or ceilings of the refrigerated locker plant or the furniture, receptacles, implements or machinery used in such locker plant are not maintained in a clean, healthful and sanitary condition as those terms are herein defined.

Section 5. Upon the issuance of an order for the denial, revocation or suspension of any license here-

under the applicant or licensee shall have the right of appeal to the circuit court and to the supreme court of this state, as provided in chapter 1, title 29, O. C. L. A., with reference to hearings by the department of agriculture.

1. No person afflicted with communicable or infectious disease shall be permitted to work in or about any refrigerated locker plant or to handle any food in connection with the operation of such plant.

2. In the discretion of the department, an employe of a locker plant may be required to furnish a certificate of health from a physician duly accredited by the state board of health for the purpose of issuing such certificates. If such certificate be required under municipal ordinance upon examination deemed adequate by the state board of health, a certificate issued in compliance with such ordinance shall be deemed sufficient under this act.

3. Any health certificate required by this act shall be revoked by the state board of health at any time that the holder thereof is found, upon physical examination of such holder, to be afflicted with any communicable or infectious disease. Refusal of any person employed in such locker plant to submit to proper and reasonable physical examination, upon written demand by the state board of health or the department, shall be cause for revocation of such employes health certificate and shall also be sufficient reason for revocation of such locker plant's license unless such employe immediately be removed from any work or operation in or about such locker plant involving the handling of food.

Section 7. The department shall cause a thorough inspection of every plant or establishment licensed under this act to be made periodically, to determine whether or not the premises and equipment used in connection therewith are constructed, maintained and operated in accordance with the requirements of this act and with the rules and regulations of the department of agriculture thereunder promulgated. Such locker plants shall be maintained in a clean, healthful and sanitary condition at all times.

Section 8. The refrigeration system of a refrigerated locker plant shall be equipped with accurate controls for the maintenance of uniform tempera-

tures as herein required in the various refrigerated rooms of such plant and shall be of adequate capacity to provide, under extreme conditions of outside temperatures and under peak load conditions in the normal operation of such plant, the following temperatures in the following rooms respectively:

1. Chill room temperature shall be within 4 degrees Fahrenheit plus or minus of 36 degrees above zero Fahrenheit, with a tolerance of 10 degrees Fahrenheit for 24 hours after fresh food is put in such room for chilling.

2. In all locker plants operating at the time this act becomes effective the locker room temperature shall not exceed 12 degrees Fahrenheit plus. In all locker plants, the construction of which is begun after this act becomes effective, the locker room temperature shall not exceed 5 degrees Fahrenheit plus.

3. The temperatures hereinabove required shall not be construed as prohibiting variations therefrom due to defrosting, power failure, or any emergency breakdown.

4. An accurate direct reading thermometer shall be maintained in the chill room. An accurate self-registering or self-recording thermometer shall be maintained in each locker room or in each series of rooms through which the same air circulates. The discs or other temperature records made by such instruments shall be signed by the person in charge of the plant and shall be preserved at such plant for at least one year from the date of recording. Such temperature-recording equipment and the recordings thereby made shall be subject to inspection and testing by the department to determine their accuracy.

Section 9. The operator or person in charge of a refrigerated locker room shall have the right to inspect all food or any item before it is placed in any locker. Nothing shall be stored outside of the lockers in a locker room without being labeled and wrapped or otherwise properly covered.

All fresh carcass meats on coming into custody or possession of the operator or owner of a refrigerated locker plant shall be identified with suitable tag or stamp and shall be placed in the chill room, unless previously chilled, for at least 24 hours before removal to the cutting room. In applying

marks directly to meat or other food products, the operator shall use only non-toxic ink or other harmless substance.

Section 10. All fish shall be so handled, placed and stored as to protect other stored foods and the plant equipment from fish flavors and fish odors.

Fish and wild game shall be stored and handled only in conformity with fish and game laws of the state and regulations thereunder promulgated. Owners, operators or persons in charge of refrigerated locker plants shall not be held responsible or liable for violations of such laws and regulations by locker tenants.

Section 11. The department of agriculture may make and enforce reasonable rules and regulations to carry out the provisions of this act.

Section 12. Any person who, by any act, whether of commission or omission, violates any provisions of this act, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Section 13. Justices courts and district courts shall have concurrent jurisdiction with the circuit court of all prosecutions arising under this act. The district attorney hereby is authorized to institute prosecutions for violations of this act by information, or the same may be instituted by indictment or complaint verified before any magistrate.

Section 14. In all prosecutions under this act the fine or fines collected shall be transmitted by the officer collecting the same to the state treasurer of the state of Oregon, who shall credit the same to the department of agriculture account in the general fund of the state, and such fines shall be used to cover the cost of making investigations and inspections required by this act.

Section 15. Persons who own or operate refrigerated locker plants shall not be deemed to be ware-

housemen, nor shall receipts or other instruments issued by such persons in the ordinary conduct of their business be deemed to be negotiable warehouse receipts.

Section 16. Two copies of this law shall be furnished each applicant for a license, and one of the same shall be posted in a conspicuous place in the plant operated by the licensee.

Section 17. Each refrigerated locker plant wherein food is handled, wrapped or processed, shall have available and maintain in a clean, healthful and sanitary condition, a washroom with hot and cold running water.

1. Each refrigerated room with a temperature below 30 degrees Fahrenheit, if used by the public or accessible to locker renters, shall be equipped with safety light or lights burning continuously during all times when the plant is open and so located as to assure easy exit from such refrigerated room.

2. A push button connected with an electric bell or buzzer, or other signaling device, shall be located in the locker room at a convenient height and in a position near the safety light, plainly marked for the use of patrons as a distress signal to the outside.

3. The switch for the safety light or lights mentioned in this section shall be so constructed and placed that the public can not regulate its "on" and "off" positions.

4. All refrigerated doors shall be so constructed as to be opened from either the inside or outside of any room or compartment to which they give access, and shall be so maintained as to assure that such doors will open freely at all times.

5. All machinery or other devices dangerous to the public shall be adequately covered and guarded to protect locker room tenants against injury.

Section 18. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of

this act, it being the intent of this legislative assembly to enact the remainder of this act, notwithstanding such part so declared unconstitutional should or may be so declared. (L. 1947, ch. 244).

REGULATION AND LICENSING OF RESTAURANTS

Sec. 99-2272. Definitions. The term "restaurant" shall mean any establishment where food or drink is prepared for consumption by the public, but shall not include railroad dining cars.

The term "itinerant restaurant" shall mean any restaurant operating temporarily in connection with any fair, carnival, circus, public exhibition or similar gathering.

The term "health officer" shall mean the state health officer, except that in counties having a population of 10,000 or more it shall mean the county health officer, and in cities having an active health officer it shall mean the city health officer. (L. 1945, ch. 432, Sec. 1, effective July 1, 1945.)

Sec. 99-2273. License: Posting: Application: Contents: Renewal: Fee: Suspension, Refusal, Revocation. It shall be unlawful for any person to operate a restaurant without first procuring a license to do so from the health officer. Such license shall be posted in a conspicuous place on the premises of the licensee.

Application for such license shall be in writing in the form prescribed by the licensing official and shall contain the name and address of the applicant and any other information which the licensing official may require. All licenses issued hereunder shall terminate and be renewable on December 31 of each year.

Every applicant for a license or renewal thereof shall pay to the health officer a license fee, the amount to be determined as follows:

1. For all establishments having 25 or less serving spaces, \$3.00.

2. For each additional single serving space, 5c.

The licensing official hereby is authorized and empowered to suspend, refuse or revoke any license hereunder if it shall appear upon hearing before the health officer that the licensee or applicant has violated any of the provisions of this act or any rule or regulation promulgated hereunder. (L. 1945, ch. 432, Sec. 2, effective July 1, 1945.)

Sec. 99-2274. Examination of Food and Drink Samples: Authority as to Unwholesome or Adulterated Food and Drink. Samples of food, drink and other substances may be taken and examined by the health officer as often as may be necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed any food or drink which is unwholesome or adulterated. (L. 1945, ch. 432, Sec. 3, effective July 1, 1945.)

Sec. 99-2275. Inspection: Report of Health Officer: Posting Copy in Restaurant. At least once every six months the health officer shall inspect every restaurant located within his jurisdiction in the state of Oregon. In case the health officer discovers the violation of any provision of this act or any rule or regulation concerning the grade in which the restaurant is classified, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied. Any violation of the same provision of this act or the same rule or regulation on such second inspection shall call for immediate lowering of the grade of the restaurant or suspension of license.

One copy of the inspection report shall be posted by the health officer upon an inside wall of the restaurant, and said inspection report shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the health department.

The person operating the restaurant shall, upon the request of the health officer, permit access to all parts of the establishment. (L. 1945, ch. 432, Sec. 4, effective July 1, 1945.)

Sec. 99-2276. Power of State Board of Health to Make Rules and Regulations. The state board of health hereby is empowered, authorized and directed

to make all rules and regulations necessary for the enforcement of this act. (L. 1945, ch. 432, Sec. 5, effective July 1, 1945.)

Sec. 99-2277. Non-Application of Act to Municipalities Having Regulatory Ordinances: Annual Inspection Within Municipalities. Nothing contained in this act shall apply to any incorporated city or town having and enforcing an ordinance regulating eating and drinking establishments under standards no lower than those required by this act. At least once annually the state health officer shall make such inspection within such cities or towns as are necessary to determine that state standards are being complied with. (L.1945, ch. 432, Sec. 6, effective July 1, 1945.)

Sec. 99-2278. Grading of Restaurants: Itinerant Restaurants. All restaurants operating under this act, except itinerant restaurants as hereinbefore defined, shall be graded as A, B or C in accordance with the standards of sanitation set forth in the rules and regulations of the state board of health. Itinerant restaurants shall be operated in a sanitary manner as directed by the rules and regulations of the state board of health; provided, however, that the provisions of this act relating to grading restaurants as A, B and C shall not apply to itinerant restaurants. (L. 1945, ch. 432, Sec. 7, effective July 1, 1945.)

Sec. 99-2279. Display of Notice of Grade. Every restaurant shall display at all times in a place designated by the health officers, a notice approved by the health officer stating the grade of the establishment. (L. 1945, ch. 432, Sec. 8, effective July 1, 1945.)

Sec. 99-2280. Operation of Restaurant to Be in Conformance With Grades or Itinerant Restaurant Rules: Failure to Qualify as Grade B: Reinstatement of License. No restaurant shall be operated within the state of Oregon unless in conformance to grade A or grade B, or in the case of an itinerant restaurant, the rules and regulations of the state board of health relating thereto; provided, however, that when any restaurant fails to qualify as grade B, the health officer is authorized in lieu of revocation or suspension of license to lower the grade of the establishment and permit its operating during a temporary period of not exceeding 30 days.

The health officer is authorized to reinstate a license which has been revoked, suspended or denied and to reinstate a grade which has been lowered when it shall appear from the inspection of the health officer that the licensee is complying with the respective grade requirements. (L. 1945, ch. 432, Sec. 9, effective July 1, 1945.)

Sec. 99-2281. Diseased Persons Working in Restaurants: Posting of This Section in Toilet Rooms: Suspicion of Possible Transmission of Infection. No person who is affected with any communicable disease or is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the restaurant manager suspects that any employe has contracted any disease in a communicable form or has become a carrier of such disease he shall notify the health officer immediately. A placard containing this section shall be posted in all toilet rooms.

When suspicion arises as to the possibility of transmission of infection from any restaurant employe, the health officer is authorized to require any or all of the following measures: (1) The immediate exclusion of the employe from all restaurants, and (2) adequate medical examinations of the employe and his associates, with such laboratory examinations as may be indicated. (L. 1945, ch. 432, Sec. 10, effective July 1, 1945.)

Sec. 99-2282. Rating Surveys: Preparation and Dissemination of Information: Cooperation With Local Health Departments in Educational Programs. The state board of health hereby is authorized and directed to make such rating surveys as are necessary to obtain uniform enforcement of this act throughout the state of Oregon, and shall prepare and disseminate information and shall cooperate with and assist local health departments in educational programs for the purpose of encouraging compliance with this act on the part of owners, managers and employes of eating and drinking establishments. (L. 1945, ch. 432, Sec. 11, effective July 1, 1945.)

Sec. 99-2283. Disposition of Fees and Fines: Restaurant License Account: Appropriation: Audit of Claims: Warrants. All inspection fees and fines col-

lected under this act shall be paid to the health department having jurisdiction and shall be used in the administration and enforcement of this act; provided, however, that all moneys received by the state health officer under this act shall be paid into the general fund in the state treasury and shall be by the state treasurer placed to the credit of the state board of health to an account to be known as the "Restaurant License Account" and such amount as may be necessary, and no more, hereby is appropriated out of such restaurant license account for the payment of all expenses incurred by the state health officer or the state board of health in administering and enforcing the provisions of this act. The secretary of state hereby is authorized and directed to audit all claims duly approved by the state board of health, which have been incurred in pursuance of law and the foregoing appropriation, and to draw his warrants on the state treasurer for the payment thereof payable out of the restaurant license account of the general fund. (L. 1945, ch. 432, Sec. 12, effective July 1, 1945.)

Sec. 99-2284. Violations: Punishments. Any person violating any provisions of this act or rules and regulations of the state board of health promulgated hereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10) and not more than one hundred dollars (\$100), or by imprisonment of not more than 60 days, or by both such fine and imprisonment. (L. 1945, ch. 432, Sec. 13, effective July 1, 1945.)

HOMES FOR THE AGED

Sec. 99-3201. Licensing for Homes for the Aged Required: Annual Renewal of License. It shall be unlawful for any person, firm, corporation or association to establish or maintain for compensation or charge any home or other institution for the board or care of five or more persons of advanced age, without first obtaining a license therefor from the state board of health, and such license, when issued, shall be renewed annually. (L. 1943, ch. 421, Sec. 1.)

Sec. 99-3202. Application of Act. This act shall not apply to any home or institution otherwise licensed by the state of Oregon. (L. 1943, ch. 421, Sec. 2.)

Sec. 99-3203. Application for License: Contents. Any application for license under this act shall be accompanied by a plan of the premises proposed to be occupied, describing the buildings and the use intended, the extent and location of grounds appurtenant thereto and the number of patients proposed to be received therein, together with such other information as the state board of health may require. (L.1943, ch. 421, Sec. 3.)

Sec. 99-3204. Examination of Premises: Fee: Board Authorized to Make Rules and Regulations. The state board of health shall not grant any license under this act without first having made, or caused to be made, an examination of the premises to be licensed, nor unless the state board of health be satisfied that such premises are substantially as described and otherwise fit and suitable for the purpose for which they are designed to be used. Such license may be granted upon payment of ten dollars (\$10) annual fee. The state board of health hereby is authorized to prescribe the conditions upon which such licenses shall be granted or renewed and to make such rules and regulations regarding such licentiates as shall be by it deemed necessary and proper in carrying out the provisions of this act. (L. 1943, ch. 421, Sec. 4.)

Sec. 99-3205. Inspection. The state health officer, or his representative, may at any or all times inspect any home or other institution licensed pursuant to this act, and he shall so inspect such institutions four times each year. (L. 1943, ch. 421, Sec. 5.)

Sec. 99-3206. Failure to Maintain Standards: Notice of Violation: Hearing: Amendment or Revocation of License: Account and Disposal of Fees. If it be found that any licensee has failed to maintain or conduct any such home or institution in conformity with this act or with the regulations of the state board of health authorized by this act, notice of the violation shall forthwith be given to such institution that, at a time and place certain, the state board of health will consider the question of revocation of such license. At such time and place a hearing shall be held at which the licensee and any witnesses the licensee desires to call shall be heard and such hearings shall be reported, and a record made thereof. If it be found by the state board of health after any such hearing that such institution

is being maintained or conducted in violation of this act or the duly promulgated regulations, and not in the interests of the inmates thereof, it may amend or revoke such license by an order which shall take effect within such time after service thereof on the licensee as the state board of health shall determine. The state health officer shall keep a correct account of all fees received and shall turn the same over to the state treasurer to be used by the board for the administration of this act. (L. 1943, ch. 421, Sec. 6.)

Sec. 99-3207. Penalty for Failure To Secure License: Jurisdiction of Courts: Duty of District Attorneys. Any person, firm, corporation or association who shall conduct or maintain, establish or keep a home or other institution for the board or care of five or more persons of advanced age, for compensation, without first obtaining a license as herein provided, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or be punished by imprisonment in the county jail for not less than 30 days nor more than six months, or by both such fine and imprisonment. Justice courts shall have concurrent jurisdiction with district and circuit courts in all prosecutions arising under this act. It shall be the duty of the district attorney of any county in which any such home or institution is maintained to prosecute all violations under this act. (L. 1943, ch. 421, Sec. 7.)

HOSPITAL SURVEY AND CONSTRUCTION ACT

Sec. 99-3301. Title of Act. This act shall be known and cited as the "Hospital Survey and Construction Act." (L. 1945, ch. 285, Sec. 1, effective March 21, 1945.)

Sec. 99-3302. Administration of Act. This act shall be administered by the state board of health which board is designated as the sole agency for carrying out the purposes of this act. (L. 1945, ch. 285, Sec. 2, effective March 21, 1945.)

Sec. 99-3303. State Advisory Council: Creation: Members: Appointment: Purpose: Secretary of

Board of Health as Member and Secretary: Terms: Compensation and Expenses: Meetings. There is hereby created a state advisory council consisting of eleven members to be appointed by the governor, which council shall include representatives of non-governmental organizations or groups and of state agencies concerned with the operation, construction or utilization of hospitals, an agrarian, an architect and a representative of labor, which council shall consult with the state board of health on matters pertaining to the carrying out of the purposes of this act. The secretary of the state board of health shall be an ex officio member of the advisory council and shall act as its secretary.

The first term of four of the originally appointed members shall be three years beginning April 1, 1945. The first term of the other four originally appointed members shall be two years beginning April 1, 1945, and the first term of the additional three members authorized herein shall be two years beginning April 1, 1947.

Thereafter the term of each member shall be three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Appointed council members, while serving on business of the council, shall receive compensation at a rate to be fixed by the state board of health but not exceeding ten dollars (\$10) per day and shall also be entitled to receive an allowance for actual necessary travel and subsistence expenses while so serving away from their places of residence. The council shall meet as frequently as the board of health deems necessary, but not less than once each year. (Ch. 285, L. 1945, Sec. 3; Am. L. 1947, ch. 266, Sec. 3.)

Sec. 99-3304. Definitions. (a) The term "hospital" includes public health centers and general, tuberculosis, mental, chronic diseases and other types of hospitals, and related facilities, such as laboratories, out-patient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but shall not include any hospital furnishing primary domiciliary care.

(b) The term "public health center" means a publicly owned facility for the provision of public health services and medical care, including related facilities such as laboratories, clinics and administrative of-

fices operated in connection with public health centers.

(c) The term "nonprofit hospital" means any hospital owned and operated by a corporation or association, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term "construction" includes construction of new buildings, expansion, remodeling and alteration of existing buildings, initial equipment of any such buildings, and landscaping the site thereof; including architects' fees, legal counsel and all other expenses incidental to construction, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land. (L. 1945, ch. 285, Sec. 4, effective March 21, 1945.)

Sec. 99-3305. Duties of Board of Health; Survey: Reports: Employment of Assistants: Applications for Construction of New Hospital Buildings, Etc. (a) It shall be the duty of the board of health upon recommendation of the advisory council to make a survey of the physical facilities within the state of Oregon now existing and which may be necessary to provide necessary physical facilities for furnishing necessary hospital, clinic and similar services to all people of the state, which survey shall include:

1. A survey of the location, size and character of all existing public and private, proprietary as well as non-profit, hospitals and health centers within the state;

2. An evaluation of the sufficiency of such hospitals and health centers to supply the necessary physical facilities for furnishing adequate hospital, clinical and similar services to all the people of the state: and

3. Compile such data and conclusions, together with a statement of the additional facilities necessary, in conjunction with the existing structures, to supply such services. The board of health shall have authority to utilize, so far as practicable, any appropriate reports, surveys and plans prepared by other state agencies.

(b) Set forth the relative need, as determined in accordance with standards prescribed by the surgeon general of the United States for the several projects included in such program and which program shall

also provide for construction and also for maintenance and operation in order of the relative need as determined and when funds are made available for that purpose, and

(c) Provide such methods of administration of the plan as the surgeon general of the United States finds necessary for its proper and efficient operation including provision for affording to an applicant for a construction project an opportunity for hearing before the state board of health;

(d) Make such reports in the form and containing such information as the surgeon general of the United States may from time to time require and take steps necessary to assure the correctness and verification of such reports, and

(e) From time to time review its hospital construction program and submit to the surgeon general of the United States and such other agencies as he may direct any necessary modification of said plan.

(f) To employ such assistants as are necessary to carry out the purposes of this act.

(g) The state board of health shall also have authority and shall in connection with the plan herein outlined receive from hospitals which are public health centers or non-profit hospitals, applications for the construction of new buildings, expansion, remodeling, alteration of existing buildings, initial equipment of such buildings and landscaping of the site therefor, which applications may include as a cost of construction, architects' fees, legal counsel and other expenses incidental thereto, but shall not include the cost of off-site improvements and with respect to public health centers, the cost of acquisition of land and shall in the event that such applications are a part of the state plan as herein outlined approve such applications and allot funds for said purposes out of any moneys appropriated to the state of Oregon for such purpose. The authority of the state board of health and the advisory council, with respect to any application for construction, shall cease upon the completion of construction included in such application. (L. 1945, ch. 285, Sec. 5, effective March 21, 1945.)

Sec. 99-3306. Authority To Apply for and Receive Federal Funds: Deposit of Funds: Use of Funds. The state board of health is hereby authorized to apply for and receive from the surgeon general of the

United States, or from the treasury of the United States as directed by the surgeon general, such sums as are available for the administration of this act and the carrying out of the purposes herein set forth and the costs of administration of this act shall be confined solely to such funds as may be made available. Reasonable allowances for the actual time of the members of the state board of health and the secretary of the state board of health in the administration of this act shall be considered an expense of administration and shall be paid as other costs of administration of this act. Any sums appropriated by the surgeon general, or by the treasury of the United States, for the purpose of administration shall be deposited by the board with the state treasurer and said funds shall be kept separate and apart from other funds and shall be used solely for the purpose of administration of this act. (L. 1945, ch. 285, Sec. 6, effective March 21, 1945.)

Sec. 99-3307. **"Hospital Construction Fund."** All funds applied for and received by the state board of health and allotted to the state of Oregon by the surgeon general of the United States, the treasury department, or other agency of the United States, for construction, as defined in this act, in carrying out the plan herein set forth shall be deposited with the state treasurer and shall be kept in a separate fund to be known as the "Hospital Construction Fund" and shall be used solely for the purpose of construction as defined in this act and in accordance with the plan upon which the allotment to the state was based. (L. 1945, ch. 285, Sec. 7, effective March 21, 1945.)

Licensing, inspection and regulation of hospitals and related institutions as herein defined; to create an advisory council and prescribe its powers; to provide for regulations, enforcement procedures and penalties; to authorize appropriations for administration and enforcement; to provide a saving clause.

LICENSING OF HOSPITALS AND RELATED INSTITUTIONS

Sec. 1. As used in this act:

1. "Hospital" means an institution devoted primarily to the rendering of healing, curing and nursing care, or healing, curing or nursing care which maintains and operates facilities for the diagnosis, treatment or care of two or more non-related individuals suffering from illness, injury, or deformity, or where obstetrical or other healing, curing and nursing care or healing, curing or nursing care is rendered over a period exceeding 24 hours.

2. "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and includes any receiver, trustee, assignee or other similar representative thereof.

3. "Governmental unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency of any of the foregoing.

Sec. 2. The purpose of this act is to provide for the development, establishment and enforcement of basic standards (1) for the care and treatment of individuals in hospitals and other institutions which render healing, curing and nursing care, or healing, curing or nursing care, and (2) for the construction, maintenance and operation of such institutions which, in the light of existing knowledge, will insure such treatment as shall be recognized and authorized by the laws of this state as being safe treatment of such individuals in such institutions.

Sec. 3. After July 1, 1947, no person or governmental unit, acting severally or jointly with any other person or governmental unit, shall establish, conduct or maintain a hospital in this state without a license.

Sec. 4. Licenses shall be obtained from the state board of health. Applications shall be upon such forms and shall contain such information as the said board may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as may lawfully be prescribed hereunder. Each application shall be accompanied by the license fee, which shall be refunded to the applicant if the license is denied and which shall be paid over into the state treasury to the credit of the said board for carrying out the general provisions of this act if the license is issued. For institutions with less than 50 beds, the annual license fee shall be fifteen dollars (\$15); for institutions with 50 beds or more and less than 200 beds the fee shall be twenty dollars (\$20); for institutions with 200 or more beds the fee shall be twenty-five dollars (\$25). During the time said licenses remain in force holders thereof shall not be required to pay inspection fees to any county, city or other municipality. Institutions operated by any governmental unit shall be exempted from payment of license fee.

Sec. 5. Upon receipt of an application and the license fee, the state board of health shall issue a license if it finds that the applicant and hospital facilities comply with the provisions of this act and

the regulations of the said board. Each such license, unless sooner suspended or revoked, shall be renewable annually upon payment of the fee and approval by the board of an annual report, upon such uniform dates and containing such information in such form as the state board of health shall prescribe by regulation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the state board of health. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation of the said board.

Sec. 6. The state board of health shall have the authority to deny, suspend or revoke a license in any case where it finds that there has been a substantial failure to comply with the provisions of this act or the rules, regulations or minimum standards promulgated under this act.

Such denial, suspension or revocation shall be effected by mailing to the applicant or licensee, by registered mail, or by personal service of, a notice setting forth the particular reasons for such action. Such denial, suspension or revocation shall become effective 30 days after the mailing or service of the notice, unless the applicant or licensee, within such 30-day period shall give written notice to the board requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the board. At any time at or prior to the hearing, the board may rescind the notice of denial, suspension or revocation upon being satisfied that the reasons for the denial, suspension or revocation have been or will be removed. On the basis of any such hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified or set aside by the board. A copy of such decision, setting forth the finding of facts and the particular reasons for the decision, shall be sent by registered mail, or served personally upon the applicant or licensee. The decision shall become final 30 days after it is mailed, unless the applicant or licensee, within such 30-day period, appeals the decision to the court, under section 13 hereof.

The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by said board. A full and complete record shall be kept of all proceedings, and all testimony shall be reported, but need not be transcribed unless the de-

cision is appealed pursuant to section 13 hereof, or a transcript is requested by an interested party who shall pay the cost of preparing such transcript.

The state board of health shall have the authority to administer oaths and to issue and serve, or have served, subpoenas for the attendance of witnesses and testimony. Witnesses subpoenaed by the state board of health, upon the application of either party, shall be allowed fees at a rate prescribed by rules.

Sec. 7. The state board of health, with the advice of the advisory council, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to the different types of hospitals and related institutions to be licensed hereunder as may be designed to further the accomplishment of the purposes of this act.

Sec. 8. Any hospital which is in operation at the time of promulgation of any applicable rules or regulations or minimum standards under this act shall be given a reasonable length of time within which to comply with such rules and regulations or minimum standards.

Sec. 9. The state board of health shall make or cause to be made such inspections as it may deem necessary; provided, however, that every institution coming under this act shall be inspected at least once annually. The state board of health may prescribe by regulations that any licensee or prospective applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit plans and specifications therefor to the state board of health for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

Sec. 10. The governor shall appoint an advisory council composed of five residents of the state four of whom shall have recognized ability in the field of hospital administration, and one a representative of consumers of hospital service. Members shall be appointed for terms of one, two, three and four years, respectively, and their successors shall be appointed for terms of four years except when appointed to

complete an unexpired term, in which case the appointment shall be for the remainder of the term. The state health officer shall serve as ex officio member of the council.

Sec. 11. The advisory council shall have responsibility and duty of consulting and advising with the board of health in matters of policy affecting administration of this act, and in the development of rules, regulations and standards provided for hereunder.

The council shall meet not less than once each year and at any other time at the call of the state health officer. Members of the council, while serving on the business of the council, shall receive compensation at a rate to be established by the board of health, but not in excess of ten dollars (\$10) per diem and, in addition, shall be reimbursed for actual expenses incurred in the performance of the duties of their offices.

Sec. 12. The state board of health shall prepare and publish a biennial report of its activities and operations under this act and shall make such information available to the state legislature upon request.

Sec. 13. Any applicant or licensee who is dissatisfied with the decision of the state board of health as a result of a hearing provided in section 6 may, by filing notice with the clerk of the court within 15 days after receiving notice of the decision, appeal the decision to the circuit court of the county in which the applicant or licensee resides, or in which the institution is located. A copy of the notice of such appeal shall be delivered to the secretary of the state board of health. Within 30 days, or such additional time as may be granted by the court after the notice of appeal has been delivered to the board, the latter shall certify and file in the court the transcript of the hearings on which the decision is based. The circuit court shall try the issues de novo as an appeal in an equity suit and, upon good cause shown, the court may remand the case to the board to take further evidence, and the board may thereupon make new or modified findings of fact or decision. The court shall have power to affirm, modify or reverse the decision of the board, and either the applicant or licensee or the board may apply for such further review as is provided by law. Pending final disposition of the matter the status quo of the applicant or licensee shall

be preserved, except as the court shall otherwise order in the public interest.

Sec. 14. Any person establishing, conducting, managing or operating any institution, within the meaning of this act, without a license shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than one hundred dollars (\$100) for the first offense, and not more than five hundred dollars (\$500) for each subsequent offense, and each day of continuing violation after a first conviction shall be considered a subsequent offense.

Sec. 15. Notwithstanding the existence and pursuit of any other remedy, the board may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

Sec. 16. Nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation or control of the remedial care or treatment of residents or patients in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, except as to the sanitary and safe conditions of the premises, cleanliness of operation, and its physical equipment, and in compliance with laws and regulations governing the regulation and control of communicable diseases.

Sec. 17. There hereby is appropriated to the state board of health out of the moneys in the general fund in the state treasury not otherwise appropriated the sum of six thousand three hundred seventeen dollars (\$6,317) for the purpose of carrying out the provisions of this act.

Sec. 18. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this act, it being the intent of this legislative assembly to enact the remainder of this act, notwithstanding

ing such part so declared unconstitutional should or may be so declared.

Sec. 19. That sections 99-532 to 99-540, O. C. L. A., inclusive, provided specifically for the licensing of maternity hospitals or lying-in asylums; chapter 178, Oregon Laws 1943, providing specifically for the licensing of hospitals, asylums, institutions and sanitarium for the care, custody or treatment of persons with disorders, and section 99-541, O. C. L. A., relating to the inspection of hospitals, sanitarium and poor farms, be and the same hereby are repealed, and institutions which were previously licensed under the above-designated laws are considered to come within the province of this act. (L. 1947, ch. 488.)

MOSQUITO CONTROL DISTRICTS

Sec. 99-3117. **Counties Authorized To Contract with Cities or Each Other with Regard to Mosquito Control: Expenses.** The county court or board of county commissioners of any county hereby is authorized to contract with the governing agency of any incorporated city or with the county court or board of county commissioners of any other county with relation to any matter incident to the eradication, prevention and control of mosquitoes. Any expense incurred or proposed to be incurred by virtue of this act in connection with the eradication, prevention and control of mosquitoes shall be deemed incurred for the public health and welfare and may be budgeted as an expense incident to the general government of the county. (L. 1945, ch. 242, Sec. 1.)

STOLEN PROPERTY: CUSTODY AND DISPOSAL

Sec. 26-2105a. **Money or Valuables Taken by Officer: Duplicate Receipt to Person in Custody: File To Be Kept.** Whenever any jailer, peace officer or health officer shall take from or receive any money or other valuables from any prisoner or person in custody for safekeeping or to be held for other purposes, such person receiving such valuables or money forthwith shall tender a duplicate receipt to the prisoner or person in custody, for such property being surrendered, the original and duplicate receipt to be countersigned by such person, if possible. Should the prisoner or person be unable to sign such receipt or receive the duplicate thereof, the same shall be signed by and delivered to the prisoner or person when rea-

sonably possible. A file of such original receipts shall be kept for at least six months after the money or valuables shall have been returned to the prisoner, his agent or representative or other person or persons entitled to the same. (L. 1945, ch. 163, Sec. 1.)

Sec. 26-2105b. Violating Act. Penalty: Any violation of this act is declared to be a misdemeanor and punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than one year or by both such fine and imprisonment. (L. 1945, ch. 163, Sec. 2.)

Sec. 23-943. Illegal Disinterment. If any person shall willfully and wrongfully dig up, disinter, remove, or convey away any human body, or the remains thereof, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than two years, or by imprisonment in the county jail not less than three months nor more than one year. (L. 1864; D. Sec. 640; D. & L. Sec. 656; H. Sec. 1875; B. & C. Sec. 1940; L. O. L. Sec. 2100; O. L. 2100; O. C. 1930, Sec. 14-728.)

Sec. 58-522. Adulteration of Drugs so as to Render Injurious to Health. If any person shall adulterate for the purpose of sale any drug or medicine, in such manner as to render the same injurious to health, or shall knowingly sell or offer for sale any such adulterated drug or medicine, such person, upon conviction thereof, shall be punished in the manner provided in section 2224 (L. O. L.) and such adulterated drugs or medicines shall be forfeited and destroyed. (L. 1864; D. Sec. 687; D. & L. Sec. 720; H. Sec. 1980; B. & C. Sec. 2120; L. O. L. Sec. 2226; O. L. Sec. 2226; O. C. 1930, Sec. 14-901.)

TEACHERS CERTIFICATION

Sec. 111-2203. Registration of Certificates: Health Certificates. No certificate issued by the superintendent of public instruction shall be valid until it has been registered, for the school year in which it is to be used, with the county school superintendent of the county in which the holder thereof proposes to teach and until such person has filed with such county school superintendent a certificate of health issued by a duly licensed physician, countersigned by the county health officer in the county in which the teacher is to teach, showing that such person is free from communicable tuberculosis. This certificate of

health shall remain on file with said county school superintendent during the time of the teacher's employment in the county. The state board of health is hereby authorized and empowered to adopt and promulgate regulations governing the type of examination to be given to ascertain whether or not such person is free from communicable tuberculosis. The state department of education shall furnish the required certificate blanks. (L. 1943, ch. 139, Secs. 11, 16, repealing original and adding new section, effective Feb. 25, '43.)

Sec. 111-2905. Health Instruction and Physical Education Programs To Be Provided: Duty of Directors of School Districts: Purpose: Programs To Include What. The board of directors of all school districts of the state of Oregon shall provide in their respective schools, programs of health instruction and physical education for the development of health and physical fitness for all elementary and high school pupils in such schools.

It shall be the purpose of these programs to promote, develop and maintain among pupils at all age levels optimum physical growth, health, and physical fitness.

The physical education program shall be so planned as to develop as minimum essentials normal symmetrical growth, organic vigor, strength and endurance, good posture, skills of bodily movement and coordination, and high levels of such qualities as agility, strength, speed, power, endurance, flexibility, balance, relaxation and such other physical qualities as the state superintendent of public instruction may deem important.

The health instruction program shall be planned to give instruction in personal hygiene, community health and sanitation, communicable diseases, nutrition, mental health, safety education, first aid, instruction in the choice and use of health services and health practices, instruction concerning the structure and functioning of the human body, the physiological effects of exercise and such other instruction as the state superintendent of public instruction may deem important. (L. 1945, ch. 316, Sec. 1.)

Sec. 111-2906. Duties of Superintendent of Public Instruction. This program shall be under the general direction of the superintendent of public instruction, and it shall be his duty to (1) prescribe for, with the advice of the state board of health, a program of health examinations of pupils in the elementary and

secondary schools necessary to achieve the purposes of this act; (2) provide and recommend program materials consisting of such elements as sports activities, developmental activities, disciplinary exercises, corrective exercises and rhythmic, provide and recommend informational materials, teaching techniques, and suggest class schedules such as shall be suitable to the achievement of the purposes of this act, in schools of various types and sizes; (3) provide checks and standards by which the progress of individual pupils can be evaluated, and the schools rated in terms of their meeting the purposes of this act; (4) coordinate the activities of the governmental agencies which carry on functions in the schools related to the purposes of this act; (5) employ in his office the necessary trained personnel to plan, supervise, direct, and evaluate the programs conducted in the schools; and (6) make such rules and regulations as are necessary for the implementation of this act. (L. 1945, ch. 316, Sec. 2.)

Sec. 111-2907. Responsibility of County and City School Superintendents. County school superintendents and city school superintendents shall be charged with the responsibility of carrying out such rules and regulations as shall be laid down by the superintendent of public instruction for the implementation of this act. (L. 1945, ch. 316, Sec. 3.)

Sec. 111-2908. Objections of Pupils. Any pupil who objects to provisions in this act on constitutional or religious grounds shall not be required to submit himself to the specific requirements or requirements to which objection is made when his constitutional rights will be violated, provided a statement of such objection signed by a parent or guardian of the pupil is presented to the district school board. (L. 1945, ch. 316, Sec. 4.)

Sec. 111-2911. Supplies and Instructions: Preparation by Superintendent of Public Instruction. The state superintendent of public instruction shall provide, prepare, or cause to be prepared blanks or other supplies for the examination of all children attending the elementary public schools of the state of Oregon, for the purpose of determining defects of vision, hearing, breathing, dentition or other external obvious physical defects which will prevent or interfere with the normal education of the child. He shall provide, prepare or cause to be prepared necessary instruction for the use of the tests, blanks, records and other

supplies and shall furnish same to the elementary schools of the state. (L. 1925, ch. 27, Sec. 1, p. 40; O. C. 1930, Sec. 35-3301.)

Sec. 111-2912. Time of Examination: Report to Superintendent of Public Instruction. The superintendent, principal or teacher in every elementary public school of the state shall, during the first month of the school year make the examinations or tests provided for in section 111-2911 in such manner as shall be required by the state superintendent of public instruction and prepare the same upon the blanks furnished and make a written report thereof to the state superintendent of public instruction. (L. 1925, ch. 27, Sec. 2, p. 40; O. C. 1930, Sec. 35-3302.)

Sec. 111-2913. Report to Parent of Physical Defects. The superintendent, principal or teacher shall report any physical defects of any child under his supervision to the parent or guardian as soon as such defects or defect are apparent to observation or revealed by examination or test; provided, that any blank, record or other form or method employed to communicate knowledge of any defects to any parent or guardian shall, without further direction, simply state that such defects are apparent. (L. 1925, ch. 27, Sec. 3, p. 40; O. C. 1930, Sec. 35-3303.)

Sec. 111-2914. Objection to Examination: Exemption. Any parent or guardian may object in writing to the superintendent, principal or teacher against the examination of his or her child or ward and such pupil shall be exempt from any examination or test for or on account of any physical defect or noncontagious disease. (L. 1925, ch. 27, Sec. 4, p. 40; O. C. 1930, Sec. 35-3304.)

DENTAL INSPECTION

Sec. 111-2921. Dental Inspections in Districts with More than 25,000 Pupils. Every district school board in cities where there are enrolled and in attendance at the public schools therein not less than twenty-five thousand (25,000) pupils shall have authority to cause dental inspection to be made at least once in each school year of each pupil attending school in such district at the time of such inspection. (L. 1923, ch. 101, Sec. 1, p. 153; O. C. 1930, Sec. 35-3401.)

Sec. 111-2922. Equipment and Quarters: Quality of Work: Charges: Consent of Parents. Every such school board shall have authority to furnish necessary instruments and equipment and to provide suitable quarters in which either dental examination or treatment in such district may be made. And such dental examination and treatment shall be scientific, sanitary and efficient, and may be furnished by such school board free of expense to the pupils whose parents or guardians are, in the opinion of the board, unable to pay therefor; provided, however, that the charges, if any, made by such school board for such examination and treatment shall be fair and reasonable; provided further, no pupil shall be required or permitted to receive such examination or treatment without the written consent of the parents or guardians of such pupil. (L. 1923, ch. 101, Sec. 2, p. 153; O. C. 1930, Sec. 35-3402.)

Sec. 111-2923. Report to Parents: Selection of Dentist: Certificate of Treatment. The result of such inspection shall be reported in writing by the person, or persons, making the same to the parents or guardian of any pupil requiring dental treatment in the opinion of the person making such inspection; provided, however, that after receiving such report from the person or persons making the inspection the parents or guardian of any pupil requiring dental treatment as shown by such report may elect to have the necessary treatment shown in such report as being necessary for the health of such pupil performed by a dentist of their own choosing, but such dentist must supply such pupil with a certificate attesting that the work was performed in accordance with the inspection provided by such school board, and such certificate shall be made a matter of record by such school board. (L. 1923, ch. 101, Sec. 3, p. 153; O. C. 1930, Sec. 35-3403.)

Sec. 111-2924. Injury from Treatment: Nonliability of School District and Directors. No school district, or any school director, shall be liable to any pupil, or to the parents or guardian of any pupil, for or on account of any claim of any nature whatsoever for damage on account of any action of any person in connection with dental treatment hereby authorized. (L. 1923, ch. 101, Sec. 4, p. 153; O. C. 1930, Sec. 35-3404.)

Sec. 111-2925. Cooperation and Sharing Expenses by District with Others. Every such school board

shall have authority to cooperate with and share the expense of such inspection and treatment, if desirable, with any other organization or individuals. (L. 1923, ch. 101, Sec. 5, p. 153; O. C. 1930, Sec. 35-3405.)

MISCELLANEOUS PROVISIONS OF SCHOOL CODE

Sec. 111-3010. Communicable Diseases: Persons with or Exposed to Disease Excluded from School. No pupil, teacher or janitor shall be permitted to attend any private, parochial or public school when afflicted with any communicable disease, nor shall they be permitted to attend such school from any house in which exists any communicable disease, except in tend any private, parochial or public school when astrict conformity with the rules and regulations of the state board of health. (L. 1919, ch. 264, Sec. 23, p. 395; O. L. Sec. 8391; O. C. 1930, Sec. 59-401.)

Sec. 111-3011. Duty of Principal or Teacher on Discovery of Disease or Exposure Thereto: When Return to School Permitted: Whenever any school principal or teacher in any private, parochial or public school has reason to suspect that any pupil is afflicted with or has been exposed to any communicable disease required by the rules and regulations of the state board of health to be excluded from school, such principal or teacher shall send such pupil home and report the occurrence to the local health officer by the most direct means available, and any pupil so excluded shall not be permitted to again attend school until such pupil shall present a certificate from a legally qualified physician stating that such pupil is not afflicted with nor a carrier of any communicable disease. (L. 1919, ch. 264, Sec. 24, p. 385; O. L. Sec. 8391; O. C. 1930, Sec. 59-401.)

Sec. 111-3012. Prohibiting Attendance of Teacher or Pupil Where Disease Prevalent: Unvaccinated Children: Re-vaccination. Any board of school directors may, on account of the prevalence of any communicable disease or to prevent the spread of such communicable disease, prohibit the attendance of any teacher or pupil upon any school under their control, and may specify the time during which such teacher or pupil shall remain away from such school, and may prohibit the attendance of any unvaccinated

child, who has not had the smallpox, upon the schools under their control, and shall also have power to decide how far re-vaccination shall be required if a case or cases of smallpox have occurred in the city or district. (L. 1913, ch. 172, Sec. 1, subd. 12, p. 302; L. 1919, ch. 264, Sec. 27; O. L. Sec. 5045; O. L. Sec. 8393; O. C. 1930, Sec. 35-1110.)

Sec. 111-3013. Vermin-Infected and Insanitary Pupils: Examination: Sanitation of. Any board of school directors may prohibit the attendance of any vermin-infected or insanitary pupil upon the schools under their control, and said board of directors may require the city or county health officer to make an examination of any pupil who may be suspected of having any vermin, or of being in an insanitary condition of the body or clothing, and may require the parents or guardian of such pupil to put such pupil in a sanitary condition before returning to school. (L. 1911, ch. 82, Sec. 1, p. 123; L. 1919, ch. 264, Sec. 25, p. 385; O. L. Sec. 5082; O. L. Sec. 8392; O. C. 1930, Sec. 35-1132.)

GRANTING, SUSPENSION OR REVOCATION OF DRIVING LICENSES

Sec. 115-205. License Restrictions as to Minors, Drunkards, Addicts, Incompetents, Etc.: Special or Emergency Permits to School Children and Others: Application and Examination for License or Permit Hereunder: Fee: Financial Responsibility of Applicant: Cancellation and Renewals.

(f) If any applicant for an operator's or chauffeur's license or instruction or special permit to operate motor vehicles appears to be afflicted with or suffering from any physical or mental disability or disease which might affect his operation of a motor vehicle, the secretary of state may require such applicant to demonstrate personally that, notwithstanding such disability or disease, he is a proper person to operate a motor vehicle, and the secretary of state further may require a certificate of such applicant's condition signed by the state health officer; provided, that when the affliction in question apparently involves only visual deficiencies the secretary of state may, in his discretion, require a certificate from a proper authority duly licensed by the state of Oregon to conduct such examinations.

Whenever an examination is required as a prerequisite to the furnishing of a certificate by the state

health officer, such examination shall be made by the county health officer or his duly authorized representative of the county in which the applicant resides or by the state health officer or his duly authorized representative; provided, that in the event it should be impracticable to have such examination made by one of the aforesaid officers or their duly authorized representatives the examination may be made by a doctor designated by the state health officer. It shall be the duty of any officer or doctor who conducts an examination as provided for in this section immediately to make a written report of the findings and recommendations upon such examination to the state health officer. Whenever the state health officer desires additional data other than that furnished by the designated officer or doctor he may require the applicant to authorize a doctor who is familiar with said applicant's case to forward to said health officer a certificate or case report for the latter's consideration, or to appear before a designated specialist for further examination.

If the applicant so desires he may cause a written report or written reports concerning his affliction or disability to be forwarded to the state health officer by a doctor or doctors of his own choice and such report or reports shall be given due consideration, together with other data pertaining to said applicant's affliction or disability.

(g) All persons authorized by the State of Oregon to diagnose and treat epilepsy or any similar disorder shall report immediately to the local health officer in writing, the full name, sex, date of birth and address of every person diagnosed as having epilepsy or similar disorder characterized by momentary or prolonged lapses of consciousness or control which is, or may become chronic; provided, however, that nothing contained in this section shall be construed to authorize persons who are required to make such reports to the local health officer to certify that any applicant for an operator's or chauffeur's license is free from epilepsy or such disorders.

Local health officers shall in turn forward said reports at the close of each week to the state health officer and the state health officer shall on or before the 15th day of each month forward to the secretary of state a copy of each such report or a written list of the information contained in all such reports received during the preceding calendar month. All reports required under this subsection shall be confidential in nature and shall be used by the secretary

of state solely to determine the qualifications of persons to operate motor vehicles upon the highways of the state. (Sec. 115-205, O. C. L. A., Am. ch. 133, L. 1947.)

DOMESTIC RELATIONS—MARRIAGE

Sec. 63-118. Medical Certificate: Duties of State Board of Health and Board of Eugenics: Penalties: Appeal from Denial of License: Certificate After Denial of Application. Before any county clerk in this state shall issue a marriage license the applicants therefor shall file with the clerk from whom such license is sought, certificates under oath from a physician or physicians duly licensed to practice his or her profession by the state board of medical examiners, and who are residents of the state, made within 10 days prior to the date of filing the same, showing to the best of his or her knowledge and belief that each of the persons thus seeking to enter the marriage relation is free from contagious or infectious venereal diseases, epilepsy, feeble-mindedness, insanity, drug addiction, or chronic alcoholism. Before issuing such certificates, the examining physicians shall in an approved licensed laboratory apply or have applied, a recognized blood test, approved by the state board of health, for the determination of syphilis, and shall, when considered necessary, examine or have examined microscopically smears from the mucous membranes of the sex organs in determining the possible presence of gonorrheal infection.

The state board of health, if called upon, shall provide the blood test for syphilis and make the smear tests for gonorrhea without charge, for applicants who are unable to pay the costs of the laboratory tests.

The laboratory certificate shall be attached to the medical examination record. All records pertaining to the physical and mental health of the applicants shall be considered confidential, shall be filed separately from the marriage license application and shall not be open for public inspection.

The state board of eugenics shall arrange and provide application blanks, certificates and standardized questionnaires, for the mental and physical examinations. Such questionnaires shall be sworn to by both applicants and physicians.

Any applicant or examining physician who shall knowingly and wilfully make any material false statement in connection with the application for such cer-

tificates shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not more than 30 days, or both.

When an applicant has been refused a marriage license, such applicant shall have the right to appeal within 90 days from the date of such refusal to the circuit court, in the county wherein application was denied. The court shall try such appeal summarily without the intervention of the jury upon the questions and answers contained in the questionnaire, the evidence and certificate or certificates of the medical examiner or examiners, and such other pertinent evidence as may be offered.

If, at the time of examination, the physician decides the applicant is ineligible for marriage certificate, because of any present epilepsy, feeble-mindedness, insanity, drug addiction, or chronic alcoholism found to exist, he shall delay the issuance of a certificate and refer the matter for study and examination to a committee of three appointed by the state board of eugenics, with a full statement of facts found and any new additional evidence the applicant may submit. If, in the opinion of said committee appointed by the state board of eugenics, the applicant should not marry, its decision shall be final, unless appeal is made to the circuit court.

In case an application for a marriage license is denied for any of the herein mentioned reasons, no certificate shall be granted until the examining physician or two other physicians shall provide signed statements that the reason for denial has been removed through cure or until the committee appointed by the state board of eugenics or the circuit court authorizes the giving of such certificate.

In case the blood test indicates a positive reaction for syphilis but in the opinion of the physician the applicant is, nevertheless, permanently noncontagious and noninfectious, by reason of other clinical findings and previous adequate treatment, the physician, with the approval of the state board of health, may issue the certificate as required in this act. (L. 1913, ch. 187, Sec. 1; O. L. Sec. 9737; O. C. 1930, Sec. 33-118; L. 1937, ch. 434, Sec. 1; Am. L. 1947, ch. 116.)

Sec. 63-119. Penalty for False Statements in Medical Certificate. Any physician who shall knowingly and willfully make any false statement in any certificate issued, as herein provided, shall be punished by the revocation of his license to practice his profession

within the state. (L. 1913, ch. 187, Sec. 2, p. 350; O. L. Sec. 9738; O. C. 1930, Sec. 33-119.)

Sec. 63-120. Fees and Charges of Physicians. All fees and charges of any physician making the necessary examination of and issuing the necessary certificate to any one party, as herein provided, shall not exceed the sum of \$5 for each person examined. (L. 1913, ch. 187, Sec. 3, p. 350; O. L. Sec. 9739; O. C. 1930, Sec. 33-120; L. 1937, ch. 434, Sec. 2, p. 687.)

Sec. 63-121. Certificates to Indigents. The county physicians of the several counties shall, upon request, make the necessary examination and issue such certificate, if the same can properly be issued, without charge to the applicant, if indigent. (L. 1913, ch. 187, Sec. 4, p. 350; O. L. Sec. 9740; O. C. 1930, Sec. 33-121.)

CHARITABLE AND CORRECTIVE INSTITUTIONS: STATE AID

CHILD-CARING INSTITUTIONS

Sec. 126-501. Annual Appropriation for Institutional Care of Homeless, Etc., Children. There is hereby appropriated \$——— annually out of any funds in the hands of the state treasurer not otherwise appropriated, for the support of homeless, neglected and abused children; foundlings and indigent orphans under the age of seventeen (17) years now being cared for or who may hereafter be cared for by benevolent or charitable institutions in this state shall be cared for and supported as hereafter provided. (L. 1919, ch. 264, Sec. 70, p. 385; O. L. Sec. 8432; O. C. 1930, Sec. 59-901.)

Sec. 126-502. Procedure To Obtain State Aid: Application: Showing Required: Investigation: Certificate. Any benevolent or charitable institution in this state wishing to secure state aid under this act shall make application therefor to the state board of health, in and by which application such institution shall show how many children of the different classes mentioned in section 126-501 it cared for during each month of the preceding calendar year, and shall state how long it has been engaged in this state in caring

for children of said classes, and shall declare its willingness to submit to any reasonable health and sanitary rules and regulations prescribed by said board of health. Upon receiving such application the state board of health shall investigate the affairs of and methods of and conditions surrounding such institution and shall, if it finds such institution is properly conducted and worthy of state aid, give it a certificate to that effect, and if it has the approval of the child welfare (state public welfare) commission, join with said child welfare commission in issuing a certificate granting state aid. It shall then file and send a duplicate of such certificate to the secretary of state. (L. 1919, ch. 264, Sec. 71, p. 385; O. L. Sec. 8433; L. 1921, ch. 148, Sec. 1, p. 260; O. C. 1930, Sec. 59-902.)

Sec. 126-503. State Board of Health To Have Visitorial Powers: Annual Report Required: Health Rules: Effect of Noncompliance with Law. The state board of health is hereby given visitorial powers over all institutions which receive state aid under this act, and each such institution shall, on or before the fifteenth day of January of each year, file with the secretary of the state board of health a financial and statistical report and statement of the preceding calendar year in such form as may be prescribed by said state board of health; and each such institution shall submit to and abide by any reasonable health and sanitary rules and regulations that may be prescribed by said state board of health; and if such institution fails to comply with any of the provisions of this section, either said state board of health or said state child welfare (state public welfare) commission shall notify the secretary of state of such refusal, and such institution shall not thereafter be entitled to any benefits or payments under this act until such failure has ceased. (L. 1919, ch. 364, Sec. 72, p. 385; O. L. Sec. 8434; L. 1921, ch. 148, Sec. 2, p. 260; O. C. 1930, Sec. 59-903.)

Sec. 126-504. Amount of Aid: Aid for Children Placed Outside Institution: When Aid Paid: Itemized Statement Required: Audit of Statement and Issuance of Warrant: Duties of State Welfare Commission as to Claims. Each institution or agency which has received from the state board of health the certificate provided for in section 126-502, shall be entitled to receive, from and out of the appropriations made by section 126-501, state aid at the rate of thirty-two (\$32) dollars per month for each child of any of said classes over 5 years of age, and at the rate of thirty-

seven (\$37) per month for each child of any of said classes not over 5 years of age; provided, however, that whenever, in the opinion of the executive officers of any one of such institutions or agencies, the welfare of any child of any of the above classes shall demand special care outside of such institution or agency, such institution or agency may place such child in any home or hospital outside of such institution or agency which is approved by the state public welfare commission, and state aid for said child shall be allowed to said institution or agency the same as though the said child were kept and maintained in the institution or agency. All sums to which any such institution or agency becomes entitled under this act shall be paid monthly. Each institution or agency shall present to the state public welfare commission an itemized statement showing the names and ages of the different children kept and maintained by it during the month and the length of time each child was so kept and maintained and the amount to which it is entitled for such child and the gross amount it is entitled to for the month. Upon receipt of said statement approved by the state public welfare commission the secretary of state shall audit same and issue a warrant upon the state treasurer in favor of said institution or agency for the amount to which it is entitled for the month covered by said statement. It shall be the duty of the state public welfare commission to investigate each claim made by an institution or agency and to approve only that portion of such claim found eligible, in accordance with the law. (Am. L. 1943, ch. 159, Sec. 1; Am. L. 1947, ch. 546.)

Sec. 126-504a. Aid for Support of Homeless, Neglected and Abused Children, Foundlings and Indigent Orphans by Counties: Each benevolent or charitable institution or agency in this state into whose care dependent children, as defined by section 93-602, O. C. L. A., have been or shall be committed by the juvenile court of any county and which has received from the state board of health the certificate provided for in section 126-502, O. C. L. A., as amended, shall be entitled to receive from the county from which such child is committed county aid at the rate of five dollars (\$5) per month for each child so committed and for whom state aid shall have been approved by the state public welfare commission. All sums to which any institution or agency becomes entitled under this act shall be paid monthly. Each institution or agency shall present to the county court of each county from which it is entitled to receive aid under this act an itemized statement showing the names

and ages of the children from such county kept and maintained by it during the month, the length of time each child was so kept and maintained, the amount to which it is entitled for such child and the gross amount to which it is entitled for the month. The county court shall audit said statement and if the same shall be found correct it shall issue a county warrant for the payment of the same. Any payment made under this act by any county for the support of any child shall not be deducted from any amount paid by the state of Oregon to any institution for and on behalf of said child. (Ch. 162, L. 1943; Am. Ch. 269, L. 1947.)

Sec. 126-505. Institutions Not Entitled to State Aid: One Half of Sum Received for Child's Support To Be Deducted from Amount of State Aid: When no Claim Shall Be Made. No institution or agency shall be entitled to any state aid under this act until it has had actual bona fide existence of at least six months; and no institution or agency which has less than 10 bona fide inmates of either or all of the classes mentioned in section 126-501, O. C. L. A., shall be entitled to any state aid under this act; and in case any institution or agency receives any sum from any person whomever, for the specific support of any homeless, neglected or abused child, foundling or orphan, 50 per cent of such sum so received shall be deducted from the amount paid by the state of Oregon to such institution or agency for the support of such child until the state has been repaid the amount it has paid for the support of such child, after that the institution or agency shall retain any and all sums paid for the support of such child; however, no claim for state aid shall be made if the sum received for the specific support of a child shall exceed the per capita amount allowed by statute for the support of a similar child. (L. 1943, ch. 166, Secs. 1, 2, repealing original and adding new section.)

Sec. 126-506. Admission of Children to Institutions: When Mother or County Judge May Surrender Child: Mother As Guardian. In case of the death or legal incapacity of a father, or in case of his deserting or abandoning or neglecting to provide for any of his children under fifteen years of age, the mother shall be considered their legal guardian, and, if unable to provide for them, may surrender them to the charge of any institution entitled to receive state aid under this act; and in all cases where the parents or guardian of any such child are not known or cannot be

found the county judge of the county in which the child may be found may make surrender of such child to any such institution. (L. 1919, ch. 264, Sec. 75, p. 385; O. L. Sec. 8437; O. C. 1930, Sec. 59-906.)

Sec. 126-507. When Judge May Surrender Child. In case it shall be shown to any judge of a court of record that the father of any child under fifteen years of age is dead or has abandoned his family, or is a habitual drunkard, or imprisoned for crime, and the mother of such child is a habitual drunkard or imprisoned for crime, or is an inmate of a house of ill-fame, or a person of a notoriously bad character, or is dead or has abandoned her family, or that the parents of any such child have grossly abused, abandoned or neglected to provide for it, or have grossly abused their parental authority over such child, then such judge may, if he thinks the welfare of such child requires it surrender such child to any institution entitled to receive state aid under this act. (L. 1919, ch. 264, Sec. 76, p. 385; O. L. Sec. 8438; O. C. 1930, Sec. 59-907.)

Sec. 126-508. Proceedings upon Complaint that Child Neglected. Whenever complaint shall be made to the judge of any court of record that any child under the age of fifteen years is abandoned by or is sustaining relations to his or her parents or guardians mentioned or contemplated in section 126-507, it shall be the duty of such judge to issue a warrant for the arrest of such child, and if on testimony satisfactory to such judge it shall appear that such child has no parents, or is abandoned, abused or neglected by its parents or guardian as contemplated in section 126-507 the said judge may, if he believes the best interests of the child require it, surrender such child to any institution entitled to receive state aid under this act. (L. 1919, ch. 264, Sec. 77, p. 385; O. L. Sec. 8439; O. C. 1930, Sec. 59-908.)

Sec. 126-509. Institutions To Exercise Authority of Guardian. Any institution entitled to receive state aid under this act shall be entitled to the custody and guardianship of such children as are surrendered into its keeping as in this act provided, and may exercise all (the) right and authority of guardians under the laws of this state and may exercise all the right and authority of the parents of such child in any proceeding for the adoption of such child. (L. 1919, ch. 264, Sec. 78, p. 385; O. L. Sec. 8440; O. C. 1930, Sec. 59-909.)

Sec. 126-510. Deduction of Sums Paid from Appropriations. Any sum or amount of money that shall have been paid for any of the objects specified in sections 126-501 and 126-519 from any continuing appropriation or in any manner from the state treasury, or expenses accruing during the period therein stated, shall be deducted from the amount hereby appropriated therefor, and no more than the respective sums herein specified shall be paid for the several objects mentioned from the state treasury by reason of any and all appropriations for such respective objects. (L. 1919, ch. 264, Sec. 79, p. 385; O. L. Sec. 8441; O. C. 1930, Sec. 59-910.)

Sec. 126-511. Visitorial Powers of State Board of Health: Health Rules: Effect of Noncompliance with Law. The state board of health hereby is given visitorial powers over all child-caring institutions which receive state aid and each such institution shall submit to and abide by any reasonable health and sanitary rules and regulations that may be prescribed by said board of health; and if any such institution fails to comply with any of the provisions of this section said state board of health shall notify the secretary of state of such refusal, and such institution shall not thereafter be entitled to any state aid until such failure has ceased. (L. 1939, ch. 463, Sec. 1, p. 911.)

Sec. 126-512. Child Not Entitled to State Aid: Notification of Institution: Appeal to State Welfare Commission. The state public welfare department, whenever it considers any child in a state-aided child-caring institution is not entitled to receive state aid, shall notify such child-caring institution of its decision and thereafter said child-caring institution shall not receive state aid for the support of said child; provided, however, that said child-caring institution may, when denied state aid, appeal to the state public welfare commission, which commission shall, after a fair and impartial hearing, render its final decision on the issue presented. (L. 1939, ch. 463, Sec. 2, p. 912.)

Sec. 126-513. Audit of Claims and Issuance of Warrants: Investigation by State Welfare Commission: Certificate of Findings. The secretary of state of the state of Oregon hereby is authorized and directed to audit all duly approved claims which have been incurred in pursuance of law governing child-caring institutions receiving state aid and to draw his warrants on the state treasurer in payment thereof out of

the respective appropriations from which the same may be determined to be payable; provided, however, that before the secretary of state shall audit any claim for state aid by any child-caring institution or agency or issue any such warrant, the state public welfare commission shall, through a duly authorized agent, investigate the claimant institution and records for the period covered for the purpose of determining whether or not it is in fact entitled to state aid as authorized by law for any or all of the persons included in said institution's statement and claim. If, as a result of said investigation, it is determined that said institution is not entitled to said state aid for any of the persons named in or included in said statement of claim, the amount or amounts claimed therein and the warrant to be issued thereon shall be reduced accordingly. The state public welfare commission, through its administrator, shall issue an appropriate certificate showing the result of its findings upon each institution's claim investigated, as herein provided, and shall file same with the secretary of state. The foregoing requirement shall be in addition to the examinations and certifications now required by law of any child-caring institution receiving, or that hereafter receive, state aid under any provision of law. (L. 1939, ch. 463, Sec. 3, p. 912.)

INSTITUTIONS CARING FOR WAYWARD AND FALLEN GIRLS

Sec. 126-514. Act of 1913: Appropriation. (Repealed, L. 1941, ch. 395, Sec. 3.)

Sec. 126-515. Application for State Aid: Showing Required: Investigation: Certificate. Any charitable or corrective institution in this state wishing to secure state aid under this act shall make application therefor to the state board of health, in and by which application such institution shall show how many girls of the class mentioned in section 126-514 it cared for during each month of the preceding calendar year and shall state how long it has been engaged in this state in caring for girls of said class and shall declare its willingness to submit to any reasonable health and sanitary rules and regulations prescribed by said state board of health. Upon receiving such application the state board of health shall

investigate the affairs of and methods of and conditions surrounding such institution, and shall, if it finds such institution is properly conducted and worthy of state aid, give it a certificate to that effect and file and send a duplicate of such certificate to the secretary of state. (L. 1913, ch. 362, Sec. 2, p. 749; O. L. Sec. 5473; O. C. 1930, Sec. 33-802.)

Sec. 126-516. State Board of Health To Have Visitation Powers: Annual Report Required: Health Rules: Effect of Noncompliance With Law. The state board of health is hereby given visitatorial powers over all institutions which receive state aid under this act; and each such institution shall, on or before the fifteenth day of January of each year file with the secretary of the state board of health a financial and statistical report and statement for the preceding calendar year in such form as may be prescribed by said state board of health, and each such institution shall submit to and abide by any reasonable health and sanitary rules and regulations that may be prescribed by said state board of health; and if any such institution fails to comply with any of the provisions of this section said state board of health shall notify the secretary of state of such refusal and such institution shall not thereafter be entitled to any benefits or payment under this act until such failure has ceased. (L. 1913, ch. 362, Sec. 3, p. 749; O. L. Sec. 5474; O. C. 1930, Sec. 33-803.)

Sec. 126-517. Amount of Aid: How Paid: Itemized Statement Required: Approval by Secretary of State Board of Health: Issuance of Warrant. Each institution which has received from the state board of health a certificate provided for in section 126-515 shall be entitled to receive from and out of the appropriation made by section 126-514 state aid at the rate of eight dollars (\$8) per month for each wayward girl (of the class mentioned in said section) between the ages of twelve and eighteen years, and at the rate of \$10 per month for each maternity or venereal case under the age of twenty-one years. All sums to which any such institution becomes entitled under this act shall be paid quarter-yearly, to wit: For the quarters ending on the last days of March and June and September and December of each year. Each institution shall present to the secretary of state an itemized statement showing the names and ages of the different girls kept and maintained by it during the quarter and the length of time each girl was so kept and maintained and the amount to which

it is entitled for each such girl and the gross amount (to which) it is entitled for the quarter, but before being presented to the secretary of state said statement must have been presented to and approved by the secretary of the state board of health. Upon receipt of said statement so approved the secretary of state shall issue a warrant upon the state treasurer in favor of said institution for the amount to which it is entitled for the quarter covered by said statement. (L. 1913, ch. 362, Sec. 4; L. 1915, ch. 335, Sec. 1, p. 532; O. L. Sec. 5475; O. C. 1930, Sec. 33-804.)

Sec. 126-518. Institutions Not Entitled to State Aid. No institution or agency which receives from the state of Oregon any direct and specific appropriation of money shall be entitled to receive any state aid under this act for any period covered by such appropriation; and no institution or agency shall be entitled to any state aid under this act until it has had an actual bona fide existence of at least six months. (Am. L. 1941, ch. 395, Sec. 1.)

Sec. 126-519. Act of 1919: Appropriation. (Repealed, L. 1941, ch. 395, Sec. 3.)

Sec. 126-520. Application for State Aid: Showing Required: Investigation: Certificate. Any charitable or corrective institution in this state wishing to secure state aid under this act shall make application therefor to the state board of health, in and by which application such institution shall show how many wayward girls between the ages of 12 and 18 years and maternity and venereal cases of female persons under the age of 21 years of the class mentioned in section 126-519 it cared for during each month of the preceding calendar year, and shall state how long it has been engaged in this state in caring for girls and female persons of said class, and shall declare its willingness to submit to any reasonable health and sanitary rules and regulations prescribed by said board of health. Upon receiving such application the state board of health shall investigate the affairs of and methods of and conditions surrounding such institution, and shall, if it finds such institution is properly conducted and worthy of state aid, give it a certificate to that effect and file and send a duplicate of such certificate to the secretary of state. (L. 1919, ch. 264, Sec. 67, p. 385; O. L. Sec. 8443; O. C. 1930, Sec. 59-912; L. 1931, ch. 292, Sec. 2, p. 518.)

Sec. 126-521. Amount of Aid: When Paid: Deductions: Itemized Statement Required: Audit of Statements and Issuance of Warrant: Investigation and Approval of Claims. Each institution or agency which has received from the state board of health a certificate provided for in section 126-515, shall be entitled to receive state aid at the rate of thirty-two dollars (\$32) per month for each wayward girl or girl in need of correctional institutional care between the ages of 12 and 18 years; provided, that the state public welfare commission may, in its discretion, approve payment of state aid for any such girl between the ages of 18 and 21 years; and at the rate of forty-two dollars (\$42) per month for each maternity or venereal case under the age of 21 years. In case any institution or agency receives any sum from any person, whomever, for the specific support of any wayward girl, or girl in need of correctional institutional care, either committed by court as such or admitted on a voluntary basis between the ages of 12 and 21 years, and maternity and venereal cases under the age of 21 years, 50 per cent of such sum so received shall be deducted from the amount being paid by the state of Oregon to such institution or agency for the support of such child until the state has been repaid the amount it has paid for the support of such child, and thereafter said institution or agency shall retain any and all such sums paid for the support of such child; provided, however, that no claim for state aid shall be made if the sum received for the specific support of the child shall exceed the per capita amount allowed by statute for the support of a similar child. All sums to which any institution or agency becomes entitled under this act shall be paid monthly. Each institution or agency shall present to the state public welfare commission an itemized statement showing the names and ages of the different girls kept and maintained by it during the month and the length of time each girl was so kept and maintained, and the amount to which it is entitled for each such girl, and the gross amount to which it is entitled for the month. Upon receipt of said statement approved by the state public welfare commission the secretary of state shall audit same and issue a warrant upon the state treasurer in favor of said institution or agency for the amount to which it is entitled for the month covered by said statement. It shall be the duty of the state public welfare commission to investigate each claim made by an institution or agency and to approve only that portion of such claim found eligible, in accordance with the law. (Am. L. 1941, ch. 395, Sec. 2; L. 1943, ch. 163, Secs. 1, 2; Am. L. 1947, ch. 547.)

Sec. 126-521a. Aid for Support of Delinquent Children by Counties. Each charitable or corrective institution or agency in this state into whose care delinquent children, as defined in section 93-603, O. C. L. A., have been or shall be committed by the juvenile court of any county and which has received from the state board of health the certificate provided for in section 126-520, O. C. L. A., shall be entitled to receive from the county from which such child is committed county aid at the rate of five dollars (\$5) per month for each child so committed and for whom state aid shall have been approved by the state public welfare commission. All sums to which any institution or agency becomes entitled under this act shall be paid monthly. Each institution or agency shall present to the county court of each county from which it is entitled to receive aid under this act an itemized statement showing the names and ages of the children from such county kept and maintained by it during the month, the length of time each child was so kept and maintained, the amount to which it is entitled for such child and the gross amount to which it is entitled for the month. The county court shall audit said statement and if the same shall be found correct it shall issue a county warrant for the payment of the same. Any payment made under this act by any county for the support of any child shall not be deducted from any amount paid by the state of Oregon to any institution for and on behalf of such child. (L. 1947, ch. 268.)

HOMES OR INSTITUTIONS CARING FOR VENEREALLY INFECTED CHILDREN

Sec. 126-349. License Required. Before any state-aided home or institution, caring for venereally infected children of school age and under the age of 21 years, shall receive any state aid, said home or institution must first obtain from the state child welfare (state public welfare*) commission, a license which shall be issued only after a showing shall have been made to the state board of health that said home or institution has ample, sanitary and scientific facilities for the care of such venereally infected children under 21 years of age. (L. 1937, Ch. 431, S. 1, p. 682.)

* Section 126-121 conferred the powers and duties of the child welfare commission upon the state public welfare commission. See S. 126-121.

Sec. 126-350. Showing Necessary for License: Approval of state board of health. No home or institution shall receive a license from the state child welfare (state public welfare*) commission nor receive state aid for the care of such infected children unless said home or institution can, by satisfactory proof, show that they employ a qualified, scientific staff, including one or more graduate nurses, possess sanitary installations, including private baths and toilets for inmates, private baths and toilets for the staff, and treatment tables for daily douches; and the issuance of any such license shall be subject to the approval of the state board of health. (L. 1937, Ch. 431, S. 2, p. 682.)

* Section 126-121 conferred the powers and duties of the child welfare commission upon the state public welfare commission. See S. 126-121.

Sec. 126-351. Daily Nurse's Chart to Be Kept. In addition to the conditions herein provided for licensing such homes or institutions the state child welfare (state public welfare*) commission shall require that each home or institution, caring for venereally infected children under 21 years of age, shall keep a daily nurse's chart showing health, temperature, weight, food, baths and general progress of each patient. (L. 1937, Ch. 431, S. 3, p. 683.)

* Section 126-121 conferred the powers and duties of the child welfare commission upon the state public welfare commission.

Sec. 126-352. Care by Family, State or Federal Agencies not Affected. This act shall not be construed to prevent the care of venereally infected children by parents or relatives in their own homes or to prevent their care and attention by the state board of health or any state or Federal relief agency. (L. 1937, Ch. 431, S. 4, p. 683.)

COMMITMENT LAWS

Providing for the care, pending commitment proceedings, of persons charged with being mentally diseased; and providing for the payment of the costs of such care.

Upon order of a court of competent jurisdiction, any person charged according to law with being mentally diseased shall be cared for, pending proceedings for the commitment of such person and until commitment or release, but in no event in excess of 72 hours, in the county hospital, if any, of the county in which such proceedings are pending or in such other quarters suitable for the comfortable, safe and hu-

mane confinement of such person as may be provided by the county court or board of county commissioners, as the case may be, of such county. The costs of such temporary care shall be paid as the other costs of such proceedings are paid under and pursuant to the provisions of sections 127-210 and 127-211, O. C. L. A. (Law 1947, ch. 431.)

Sec. 127-205. Commitment to State Hospital: By County Judge: Direction of Board of Control as to Which Hospital Commitments Shall Be Made. Commitments to the Oregon state hospital and the eastern Oregon state hospital shall be made by the county judge of the several counties in the state.

The county judges of the counties of Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill shall make their commitments to the Oregon state hospital and the county judges of the counties of Baker, Crook, Gilliam, Grant, Harney, Hood River, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler shall make their commitments to the eastern Oregon state hospital, although the Oregon state board of control may, in its discretion and for reasons which are satisfactory to said board, direct any county judge to make his commitments to either of the above-mentioned hospitals, and the authority of said board on such matters shall be final. (L. 1913, ch. 342, Sec. 2, p. 679; O. L. Sec. 2837; O. C. 1930, Sec. 67-1605.)

Sec. 127-206. Proceedings: Notice To Probate Court: Bringing Person Before Court: Issuance of Warrant: Execution Thereof: Examination of Insane Person: Physicians' Findings: Order of Commitment: Placing in Care of Guardian, Relative or Friend: Confinement in Place for Those Charged with Crime: Attendant: Cost of Confinement and Care, Liability: Determination of Ability To Pay. The judge of any court having probate jurisdiction in any county of this state, upon being notified in writing under oath by any person that any other person within the county is so mentally diseased as to be unsafe to be at large, or by reason of mental disease is suffering from exposure or neglect, shall cause such allegedly mentally diseased person to be brought before him at such time and place as he may direct, and, if necessary for such purpose, may issue a warrant to the county health officer, or in the absence or inability to act of such county health officer, to the sheriff of

the county, directing either such officer to take such person into his custody and produce him at the time and place stated in the warrant. In executing such warrant, such officer shall have all the powers provided by sections 26-1529 and 26-1530, O. C. L. A., and may require the assistance of any peace officer or other person or persons. Upon notice of said alleged mentally diseased person being given to the court as herein provided, the judge shall cause a citation or written notice to issue to the accused informing such person of the nature of the charge made against him or her. Said notice shall be served upon such accused person, by the officer who shall take such person in custody, by delivering a duly certified copy of the original thereof to the accused in person. Such officer shall thereafter make a return upon the original of such notice showing the time, place and manner of such service, and file same with the clerk of the court.

If such alleged mentally diseased person being brought before the court shall request the assistance of counsel at the proceeding herein provided for, the court shall give such person opportunity to obtain legal counsel. The court shall also grant such accused person a proper hearing. The court shall appoint at least two competent physicians, one of whom may be the county health officer, to examine said person as to his mental condition; provided, however, that for the period of the present war emergency and for six months after the termination of the present war, in counties having a population of 10,000 or less, as determined by the latest federal census, such court shall only be required to appoint one competent physician, who may be the county health officer, but may appoint additional competent physicians, to examine said person as to his mental condition; and, if requested in writing so to do, such court shall appoint one additional examining physician residing in the county where said hearing is being held, named by such allegedly mentally diseased person or his legal guardian or relative or friend to examine such person as to his mental condition. Such physicians so appointed shall examine such person in the presence of the judge as to his mental condition, and also shall report their findings in writing to the court, which findings immediately shall be filed with the clerk of the court. Should said examining physicians find, and certify under oath, that said person is so mentally diseased as to be unsafe to be at large, or by reason of mental disease is suffering from exposure or neglect, and should said judge, after having considered such evidence and any other competent evidence sub-

mitted to him at the hearing, be of the same opinion, he shall order such mentally diseased person committed to the proper state hospital; provided, that if the legal guardian or a relative or friend of said mentally diseased person request that he be allowed to care for said mentally diseased person, either at the home of such applicant or in another place satisfactory to the court, and show that he, such applicant, is competent and able to care for said mentally diseased person as so requested, and if it appear to the court that said mentally diseased person is not criminally inclined or violent, that proper care and treatment can and will be given to him by such applicant, and that it would be to the best interest of said mentally diseased person so to do, the court may, in its discretion, order and direct that said mentally diseased person be placed in the care and custody of such legal guardian, relative or friend making such application.

(Confinement in place for those charged with crime: Attendant: Cost of confinement and care, liability: Determination of ability to pay.) No person, not incarcerated upon a criminal charge, against whom proceedings have been instituted under the provisions of this section, shall be confined in any prison, jail or other enclosure for the detention of those charged with crime or violation of municipal ordinance if a place suitable for the comfortable, safe and humane confinement of such person is available. No such person not so incarcerated upon a criminal charge shall be confined without an attendant in direct charge of him, and the health officer or sheriff having said person in his custody shall select some suitable person to act as such attendant. If such person be adjudged mentally diseased, as aforesaid, and has not been confined in any prison, jail or other enclosure for the detention of those charged with crime or violation of municipal ordinance, he, or those legally responsible for his support, may be required to pay the actual cost of such confinement and care if financially able so to do; and the ability of such person, or those legally responsible for his support, to pay therefor shall be determined in the manner provided by section 127-403, O. C. L. A. (Am. L. 1941, ch. 397, Sec. 1; Am. L. 1943, ch. 396, Sec. 1.)

Sec. 127-207. Record of Proceedings. The county judge shall cause to be recorded in the records of the court a full account of the proceedings had at the said hearing and examination, together with the judgment and order of the court and a copy of the warrants issued as hereinafter provided. (L. 1913, ch. 342,

Sec. 127-208. Warrants to Health Officer or Sheriff: Contents: Issuance: Accompanying Physician's Certificate: Directions: Execution. If such person be adjudged mentally diseased, and ordered committed, as aforesaid, warrants directed to the health officer of the county, or in his absence or inability to act, the sheriff of the county, and to the superintendent of the state hospital to which said mentally diseased person shall have been committed, setting forth the name, residence, nativity and age of such mentally diseased person, and such other information as may be required by rules and regulations promulgated by the Oregon state board of control, shall issue and be accompanied by a copy of said physicians' certificate or certificates. Such warrants also shall command the safe custody and proper care of said mentally diseased person, and direct: That such custody shall not be in any prison, jail or other enclosure for the detention of those charged with crime or violation of municipal ordinance if a place suitable for the comfortable, safe and humane confinement of such person is available; that such person shall not be confined without an attendant in direct charge of him; that said health officer or sheriff, as the case may be, shall select some suitable person to act as such attendant; and that such mentally diseased person be promptly and safely delivered to the proper authorities of the proper state hospital, as hereinafter provided. In executing such warrant such officer may require the assistance of any peace officer or other person or persons. (Am. L. 1941, ch. 397, Sec. 2.)

Sec. 127-209. Duties of Health Officer or Sheriff: Custody of Patient: Notice to Hospital Superintendent: Transportation to Hospital: Designation of Employee by Superintendent: Delivery of Patient, Etc., to Employee. Upon receipt of one of such warrants, the health officer, or in his absence or inability to act, the sheriff shall take said mentally diseased person into his custody, and see to it that he is safely kept and properly cared for as provided by section 127-208, O. C. L. A., until delivery is made as hereinafter provided, to the proper authorities of the proper state hospital. Immediately after coming into possession of said warrant or into custody of said mentally diseased person, whichever first occur, such officer shall notify, by telegram if possible, or otherwise by telephone or mail, the superintendent of the state hospital to which said person shall have been

committed, informing him of the fact that such person is being held awaiting delivery, and also stating the name, character, condition, sex and age of such person. Immediately upon receipt of such notice, the superintendent of such hospital shall designate an employe of said hospital to take custody of such person and safely to transport him to said state hospital. Such employe, accompanied by such assistants as the superintendent may deem necessary, forthwith shall proceed to the point where said person is to be delivered into his custody, and, upon demand, shall be given custody of such person, together with one of such warrants and such copy of the examining physicians' certificate or certificates, issuing appropriate receipts therefor. Such employe shall proceed without unnecessary delay safely to transport such person to the state hospital to which he shall have been committed, and there make delivery of him to the superintendent of such state hospital. (Am. L. 1941, ch. 397, Sec. 3.)

Sec. 127-214. Admission on Voluntary Application: Requisites of Application: Detention Following Notice of Desire To Be Discharged. Pursuant to rules and regulations promulgated by the Oregon state board of control, the superintendent of any state hospital for the treatment and care of the mentally diseased may admit and hospitalize therein as a patient, for a period of not more than 30 days on one application, any person who may be suffering from nervous disease threatening mental disorder, and who voluntarily shall have made written application for such admission; provided, that no person under the age of 21 years shall be admitted as a patient to any such state hospital unless an application therefor in his behalf shall have been executed by his parent, adult next of kin, or legal guardian. No person so admitted to any such state hospital shall be detained therein more than 10 days after he, if an adult, shall have given notice in writing of his desire to be discharged therefrom, or, if such patient be a minor, after notice in writing shall have been given by his parent, adult next of kin or legal guardian that it is the desire of such parent, adult next of kin or legal guardian that such minor be discharged therefrom. (Am. L. 1941, ch. 397, Sec. 4.)

Sec. 127-215. Admission of Oregon Citizens Adjudged Insane or Feeble-Minded in Other States. The superintendent of either of the state hospitals, and the superintendent of the state institution for feeble-minded, upon receipt of a certified copy of the order

of commitment, shall, respectively, receive into his institution and care for any citizen of Oregon who has been adjudged insane or feeble-minded by the court of another state and committed to a similar institution in such state, when any such person has been returned to this state by the authorities of the state where originally committed. (L. 1929, ch. 160, Sec. 1, p. 134; O. C. 1930, Sec. 67-1615.)

Sec. 127-216. Discharge of Patients: Authority of Superintendent: Procedure: Patients That May Be Discharged: Proof of Willingness and Ability of Relatives, Etc., To Support Patient. The superintendent of any state hospital wherein are confined persons adjudged to be insane may, by filing his written certificate with the state board of control, discharge any patient, except one held upon an order of a court or judge having criminal jurisdiction in an action or proceeding arising out of a criminal offense, at any time as follows:

(1) A patient who, in his judgment, is recovered.

(2) A patient who, in his opinion, is a dotard and not insane.

(3) Any patient who is not recovered but whose discharge, in the judgment of the superintendent, will not be detrimental to the public welfare, or injurious to the patient; provided, however, that before making such certificate, the superintendent shall satisfy himself by sufficient proof, that the friends or relatives of the patient are willing and financially able to receive and properly care for such patient after his discharge. (L. 1915, ch. 18, Sec. 1, p. 32; O. L. Sec. 2899; O. C. 1930, Sec. 67-1616.)

Sec. 127-217. Parole of Patient: Liability for Expenses and Damages Caused by Parolee: Readmission of Parolee: Proceedings. The superintendent may grant a parole to a patient for any period of time under general conditions prescribed by the state board of control. The hospital paroling a patient, the superintendent thereof, and members of the state board of control, shall not be liable for a paroled patient's expenses while on parole, nor shall the superintendent of any such hospital or any member of the board of control be liable for any damages whatsoever that are sustained by any person on account of the misconduct of such patient while on parole.

Every such patient so paroled shall be received back into the hospital paroling him upon the complaint, in

writing, of any citizen of the state of Oregon made to the superintendent thereof. Such complaint to be in writing and sworn to before some officer qualified to administer an oath; provided, that the acts complained of are such as to indicate that the patient should no longer be permitted to remain at large.

Every parole patient must be received back into the hospital upon voluntary application to be admitted thereto, and every patient that is on parole will be re-admitted to the hospital without examination as to his sanity before any court or judge thereof having jurisdiction over such matters. (L. 1915, ch. 18, Sec. 2, p. 32; O. L. Sec. 2900; O. C. 1930, Sec. 67-1617.)

Sec. 127-218. Substitution of Words "Mentally Diseased" and "Mental Disease" for "Insane" and "Insanity": Chapter 2, Title 127. The words "mentally diseased" and the words "mental disease" shall hereafter be respectively substituted for the words "insane" and "insanity" wherever the latter appear in chapter 2, title 127, O. C. L. A. (L. 1941, ch. 434, Sec. 1.)

Sec. 127-219. Proceedings Under Chapter. In all future proceedings under chapter 2, title 127, O. C. L. A., the words "mentally diseased" shall be used in lieu of the word "insane," and the words "mental disease" shall be used in lieu of the word "insanity." (L. 1941, ch. 434, Sec. 2.)

EUGENICS BOARD

Sec. 127-801. How Constituted: Secretary. There is hereby established and constituted for the state of Oregon a "state board of eugenics," which shall be composed of the state board of health, the superintendent of the Oregon state hospital, the superintendent of the eastern Oregon state hospital, the superintendent of the state institution for feeble-minded (and) the superintendent of the Oregon state penitentiary, whose duties shall be as hereinafter defined. The secretary of the state board of health shall serve as the secretary of said board, and the members of said board shall serve without compensation. (L. 1923, ch. 194, Sec. 1, p. 280; O. C. 1930, Sec. 68-1401.)

Sec. 127-802. Reports to Board of Eugenics: Examination of Convicted Persons: Deferring Sentence

Therefor. It shall be and it hereby is declared the duty of the superintendent of the Oregon state hospital, the superintendent of the Eastern Oregon state hospital, the superintendent of the state institution for the feeble-minded, the superintendent of the Oregon state penitentiary, the superintendent of the Oregon state training school for boys, and the superintendent of the Oregon state industrial school for girls and the state health officer to report quarterly, on the first of January, April, July and October, to the state board of eugenics, all persons, male or female, who are feeble-minded, insane, epileptic, habitual criminals, incurable syphilitics, moral degenerates, or sexual perverts, and who are, or in his opinion will likely become, a menace to society. Whenever any person is convicted of the crime of rape, incest, sodomy, contributing to the delinquency of a minor by sexual act or act of sexual perversion, or the crime against nature, or any other crime specified in section 23-910, or of attempting to commit any of said crimes, the clerk of the court shall forthwith transmit a certified copy of the record of the conviction of such person to the state board of eugenics, and the judge before whom such person was convicted may order such person to be examined by said board, and may defer sentence until it be finally determined whether an operation will be performed upon such person. (L. 1923, ch. 194; L. 1925, ch. 198; L. 1929, ch. 348, Sec. 1, p. 397; O. C. 1930, Sec. 68-1402; L. 1935 (S.S.), ch. 39, Sec. 1, p. 55.)

Sec. 127-803. (Scope and Extent of) Examination of Persons Reported: (Subpenaing Witnesses: Order of Board for) Sterlization. It shall be the duty of the state board of eugenics to examine into the innate traits, the mental and physical conditions, the personal records and the family traits and histories of all of the persons so reported, so far as the same can be ascertained, and for this purpose said board shall have the power to subpena witnesses, which subpena shall be issued by said board and served in like manner and with like effect as subpoenas in criminal cases in the circuit court, and any member of said board may administer an oath to any witness whom it is desired to examine in such proceeding; and if in the judgment of a majority of said board procreation by such person would produce a child or children having an inherited tendency to feeble-mindedness, insanity, epilepsy, criminality or degeneracy, or who would probably become a social menace or ward of the state, and there is no probability that the condition of such person so investigated and examined will

improve to such an extent as to avoid such consequences, then it shall be the duty of such board to make an order embodying its conclusions with reference to such person in said respects and specifying such a type of sterilization as may be deemed by said board best suited to the condition of said person and most likely to produce the beneficial results in the respects specified in this section. (L. 1923, ch. 194, Sec. 3, p. 280; O. C. 1930, Sec. 68-1403.)

Sec. 127-804. Written Findings: Record of: Service of Copy. After fully inquiring into the condition of each of such persons, said board shall make separate written findings and conclusions for each of the persons into whose condition it has examined, including its findings, conclusions and order thereon as herein provided, and the same shall be preserved in the records of said board and a copy thereof shall be furnished to the official who reported the case, and if an operation be deemed necessary by said board for such person so investigated, then a copy of the order of said board recommending such operation shall be served forthwith on said person, or in the case of an insane or feeble-minded person, upon his legal guardian, and if such person have no legal guardian, then upon his nearest known kin, or personal friend, within the state of Oregon, and if such person have no known kin or personal friend, within the state of Oregon, then upon the custodian guardian of such insane person. (L. 1923, ch. 194, Sec. 4, p. 280; O. C. 1930, Sec. 68-1404.)

Sec. 127-805. Purposes and Objects To Be Sought. Said investigation, findings and orders of said board shall be made with the purpose in view of securing a betterment of the physical, mental, neural or psychic condition of the person, or to protect society from the acts of such person, or from the menace of procreation by such person, and not in any manner as a punitive measure. (L. 1923, ch. 194, Sec. 5, p. 280; O. C. 1930, Sec. 68-1405.)

Sec. 127-806. Operations To Be Performed by Consent of Persons Concerned: (Consent in Case of Insane or Feeble-Minded Persons: Performance of Operation): If any person, whose condition has been examined and reported upon by said board, as hereinbefore provided, shall consent in writing to have the operation specified in the order of said board performed, such operation shall thereupon be performed upon said person by or under the direction of the su-

perintendent of the institution in which he is confined, if such person be an inmate of any of the state institutions herein mentioned, or if he is not an inmate of any of the state institutions such operation shall be performed by or under the direction of the state health officer. All such operations shall be performed with due regard for the physical condition of the person upon whom it is performed and in a safe and humane manner. In case the person to be operated upon be feeble-minded or insane, the consent hereinbefore in this section mentioned shall be construed to mean not only the written consent of the person to be operated upon, but, in addition thereto, the written consent of such person's legal guardian, or if such person have no legal guardian, then the written consent of such person's nearest known kin or personal friend within the state of Oregon, or if such person be insane, or feeble-minded, and have neither legal guardian nor known kin or personal friend within the state of Oregon, then the written consent of the custodian guardian of such insane or feeble-minded person. (L. 1923, ch. 194, Sec. 6, p. 280; O. C. 1930, Sec. 68-1406.)

Sec. 127-807. Consent Not Given: Appeal: Effect of Failure To Appeal. If consent to the performance of such operation be not given by the proper person as provided in this chapter, such person shall have a right of appeal to the circuit court of the county in which such person resides, which appeal shall be taken within 30 days from the date a copy of such order was served upon him, by serving a written notice of appeal upon the secretary or any member of said board of eugenics and by filing a copy of such notice and proof of such service thereof with the clerk of said court, whereupon the court will be deemed to have acquired jurisdiction, and to have control of all subsequent proceedings. Said board, through its secretary, or other officer having charge of its records and files, within 15 days thereafter, or such further time as the court or judge thereof may allow, shall file a copy of its said findings, conclusions and the order appealed from with the clerk of the said court. Thereupon said clerk shall docket said appeal, and the same shall be heard and determined by the court as soon thereafter as practicable. Upon failure to take an appeal from any order of said board in the manner and within the time therefor, as herein provided, such order shall then be deemed valid, enforceable, and conclusive upon all persons, and such order shall not thereafter be brought into question; the failure to so take such appeal shall be conclusively deemed the equivalent of consent to the performing

of an operation as required by such order, as though such consent had been expressly given as herein provided. (L. 1923, ch. 194, Sec. 7, p. 280; O. C. 1930, Sec. 68-1407; L. 1935 (S.S.), ch. 39, Sec. 2, p. 55.)

Sec. 127-808. Court Procedure: (Issue Raised: Duty of District Attorney: Appointment of Attorney for Plaintiff: Compensation of Attorney: Report of Testimony). The issue thereby raised shall be whether the findings and conclusions of said board shall be affirmed by the court, and shall be tried as a special proceeding in the same manner as a civil action at law in which the state of Oregon shall be the defendant and the person so taking an appeal shall be the plaintiff; each party shall have the same rights as to production of evidence. In all such cases the district attorney of the county where such proceedings are tried shall appear and defend on behalf of the state. If the plaintiff has no attorney and he is unable to secure one, the court shall appoint an attorney from the membership of the bar of said county to conduct his case in such court, and upon appeal to the supreme court, if any be taken as hereinafter provided, and such attorney shall be compensated by the state, upon order of the court; the circuit court shall have the testimony fully reported at the expense of the state. (L. 1923, ch. 194, Sec. 8, p. 280; O. C. 1930, Sec. 68-1408; L. 1935 (S.S.), ch. 39, Sec. 3, p. 56.)

Sec. 127-809. Appeal to Supreme Court: Manner: Time: (Payment of Expense Where Party Is Unable To Do So). Either party to said proceedings may take an appeal from the circuit court to the supreme court of this state in the same manner and within the same time, and with like effect, as appeals in other civil actions are taken, and such case shall be tried in the supreme court in the same manner as other appeals in actions at law. If the defendant* be represented by an attorney appointed by the court, as hereinabove in section 127-808 provided, and, in the opinion of the court, is financially unable to meet his part of the expense of an appeal, the defendant's actual and necessary expense of such appeal and prosecution thereof to final decree by the supreme court shall be paid by the state upon order of said circuit court. (L. 1923, ch. 194, Sec. 10, p. 280; O. C. 1930, Sec. 68-1410.)

*Section 8 of the act of 1923 (Sec. 127-808) provided that the issue should be tried in the same manner as a civil action in which the "state of Oregon shall be the plaintiff and the person so summoned shall be the defendant." But the position of the parties was reversed by the amendment of 1935.

Sec. 127-810. Expenses: State Liability. The state shall be liable, under this act, except as hereinabove provided for, only for the actual traveling expenses of the members of the board incurred in the performance of their duties, and the actual and necessary expense incident to the investigations of said board on appeal therefrom (L. 1923, ch. 194, Sec. 11, p. 280; O. C. 1930, Sec. 68-1411.)

Sec. 127-811. (Selection of Physician To Perform Operation: Interference With Religious Practices). Nothing in this act shall be construed to empower or authorize the board of eugenics, or its representatives, or the state health officer, or his representatives, or the superintendent of any of the six institutions mentioned in this act, or his representatives, to interfere in any manner with the individual's right to select the physician of his choice; provided, that such physician is in the judgment of the board of eugenics, competent to perform such operation; nor to interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means; provided such practice, treatment or administration shall not in any way interfere with the operation of this act and the carrying out of its purposes. (L. 1923, ch. 194; L. 1929, ch. 348, Sec. 2, p. 397; O. C. 1930, Sec. 68-1412.)

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